

Circuit Court for Washington County
Case No. 21-K-08-042149

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1585

September Term, 2017

MATTHEW CARLOS MOTLEY

v.

STATE OF MARYLAND

Woodward, C.J.,
Leahy,
Raker, Irma S.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Raker, J.

Filed: November 16, 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.

Matthew Carlos Motley was convicted in the Circuit Court for Washington County of a fourth degree sexual offense and contributing to the condition of a child. He presents the following questions for our review:

“1. Whether Appellant was denied the right to effective assistance of counsel for sentence modification purposes?

2. Whether the lower court abused its discretion by denying *coram nobis* relief to Appellant?”

We shall hold that the trial court did not abuse its discretion and affirm.

I.

On December 29, 2008, the State’s Attorney for Washington County charged appellant by criminal information with second degree rape, distribution of a controlled substance, fourth degree sexual offense, second degree assault, and contributing to the condition of a child. On June 2, 2009, appellant pled guilty in the Circuit Court for Washington County to fourth degree sexual offense and contributing to the condition of a minor. Appellant waived his right to a jury and other rights in a written waiver of rights form which was provided to court and made part of the record. Appellant acknowledged to the trial court that he had reviewed the waiver with his counsel and told the court that he fully understood all of the rights on the form. The State entered a *nolle prosequi* to the remaining charges.

To support the guilty plea, the State read a statement of facts to the court, indicating that on July 1, 2008, when appellant was eighteen years old, appellant provided the fourteen-year-old victim with vodka and the prescription drug Adderall. On July 3, after

appellant provided the victim with more vodka and Adderall, the two engaged in vaginal intercourse. Appellant agreed that the facts read by the State were true. The court found appellant guilty. On August 25, 2009, the court sentenced appellant to a twenty-six-month term of incarceration, all but eight months suspended, and three years probation.

On October 5, 2009, appellant's counsel filed a motion for modification of sentence, asking the court to consider granting probation before judgment. At the hearing on the motion on April 11, 2011, appellant asked the court to strike his conviction for fourth degree sexual offense and to enter probation before judgement on the same count. Appellant said that his probation agent had required him to register as a sex offender, which was neither contemplated by the plea agreement nor ordered by the court. The court granted appellant's motion, struck his conviction for fourth degree sexual assault, and entered probation before judgment. As a result, appellant did not have to register as a sex offender.

On November 16, 2016, appellant filed a petition for writ of error *coram nobis*, seeking the right to file a belated motion for modification of sentence and for the court to vacate his guilty plea. He claimed that he entered his guilty plea unknowingly and unintelligently. He claimed also that his attorney was ineffective in only pursuing probation before judgement for his fourth degree sexual assault conviction and not for his conviction of contributing to the condition of a child.

On July 10, 2017, the circuit court held a hearing on his petition. Appellant testified that he had experienced collateral consequences as a result of his conviction. He said that he had experienced multiple periods of homelessness and has been unable to secure

employment that pays more than ten dollars per hour. He also testified that although he had been accepted to a cybersecurity internship at Florida International University, the university revoked his offer after completing his background check. A similar result occurred upon his securing opportunities with the National Institute of Standards and Technology and with ALTA IT Services, LLC, an information technology consulting company.

On September 14, 2017, the court denied *coram nobis* relief, finding that appellant failed to establish that he was suffering significant collateral consequences. The court explained that the social, non-legal consequences that appellant claimed to be suffering were the ordinary collateral consequences that result from a criminal conviction and therefore not the type warranting *coram nobis* relief. Appellant noted this appeal.

II.

Before this Court, appellant argues that his petition for writ of error *coram nobis* should be granted. He challenges his conviction on two grounds. First, he argues that he received ineffective assistance of counsel. He argues that as counsel advocated for probation before judgment as to his fourth degree sexual offense conviction but not as to his contributing to the condition of a minor conviction and then neglected to file a subsequent motion for modification before the circuit court lost its revisory power, appellant was deprived of his right to effective assistance of counsel. Second, appellant challenges the validity of his guilty plea, arguing that he did not enter it knowingly and voluntarily, thus depriving him of his right to due process. He argues that as a result of his

conviction, he has suffered significant collateral consequences, including loss of housing because of damaged family relationships and his inability to secure gainful employment for positions that pay above ten dollars per hour. He argues that he established that he was facing significant collateral consequences and that the court erred in finding that he had not. He also argues that the circuit court abused its discretion by not addressing the merits of his claims of error. He asserts that this Court should vacate the judgment of the circuit court and grant his petition for writ of error *coram nobis*.

The State argues that the circuit court did not abuse its discretion in denying *coram nobis* relief and finding that the consequences appellant alleged were not significant collateral consequences entitling him to *coram nobis* relief. The State further argues that the circuit court did not err in declining to address the merits of appellant's claims of error, as the court found that appellant failed to establish the threshold requirement that he was suffering from significant collateral consequences. The State then argues that if this Court were to determine that the appellant's alleged significant collateral consequences were sufficient to warrant *coram nobis* relief, this Court should remand the matter to the circuit court, as the circuit court never determined whether appellant's proffered collateral consequences were in fact caused by his 2009 convictions. Finally, the State argues in the alternative that appellant's claims of error fail on the merits.

III.

We review the *coram nobis* court's decision to grant or deny the petition for writ of error *coram nobis* for abuse of discretion. *State v. Rich*, 454 Md. 448, 471 (2017). We do

not disturb factual findings unless they are clearly erroneous, and legal determinations are reviewed *de novo*. *Id.*

In *Skok v. State*, 361 Md. 52, 78 (2000), the Court of Appeals set forth a three-part test for determining whether the writ of *coram nobis* is available to a petitioner. First, the petitioner must show that he or she is neither incarcerated nor on parole or probation. *Id.* Second, the petitioner must show that he or she faces a significant collateral consequence as a result of the conviction. *Id.* Third, the petitioner must show that he or she can bring a legitimate challenge to his or her conviction on constitutional or fundamental grounds. *Id.* At issue in this appeal is whether appellant has satisfied the second part of the test.

Coram nobis relief is an “extraordinary” remedy which should only be allowed under compelling circumstances. *U.S. v. Morgan*, 346 U.S. 502, 511 (1954). As the United States Court of Appeals for the Fourth Circuit explained, *coram nobis* relief should not be granted too freely lest it damage society’s interest in the finality of criminal procedure, undermine confidence in the integrity of the judicial system, and “spawn ‘re’-litigation without end.” *U.S. v. Mandel*, 862 F.2d 1067, 1071 (4th Cir. 1988). For similar reasons, the Court of Appeals in *Skok* limited *coram nobis* relief to petitioners facing significant collateral consequences. *Skok*, 361 Md. at 78. Courts in many jurisdictions hold that for a consequence to be significant enough to warrant the extraordinary relief of *coram nobis*, it must be a legal consequence. *See, e.g., U.S. v. Bush*, 888 F.2d 1145, 1146 (7th Cir. 1989) (holding that reputational injury which reduced prospects for high-profile employment was not a significant collateral consequence warranting *coram nobis* relief as the petitioner did not suffer an ongoing legal disability); *U.S. v. Nat’l Plastikwear Fashions*, 368 F.2d 845,

846 (2d Cir. 1966) (*per curiam*) (holding that petitioner must show he is facing “adverse legal consequences from his conviction” in order to receive *coram nobis* relief); *State v. Scales*, 593 N.E.2d 181, 184 (Ind. 1992) (holding that petitioner must show “present adverse legal consequences flowing from the conviction” in order to be granted *coram nobis* relief).¹ The Court of Appeals of Maryland, however, has yet to state expressly that significant collateral consequences must be legal in nature.

Appellant urges this Court to hold that *coram nobis* relief is not limited to significant legal consequences to merit relief. We need not do so in this case because, whatever the margins of such consequences may be, the consequences alleged by appellant are not cognizable grounds for *coram nobis* relief under any test. Whatever the limitations of significant collateral consequences, the consequences appellant alleges here are insufficient to warrant *coram nobis* relief. Although significant to the appellant, the consequences appellant alleges, i.e., loss of housing due to damaged family relationships and difficulty in securing gainful employment, are ordinary adverse collateral consequences which result from conviction of a crime. Were we to hold that these consequences were significant enough to warrant *coram nobis* relief, this “extraordinary” remedy would become available following almost every criminal conviction, thus virtually eliminating the concept of finality of judgments. We hold that the trial court did not abuse its discretion in denying appellant’s petition for writ of error *coram nobis*. Appellant has

¹ The *Skok* Court cited *National Plastikwear Fashions* and *State v. Scales* as examples of what a petitioner must show in order to establish that he is suffering significant collateral consequences. *Skok*, 361 Md. at 79.

not met the threshold burden of alleging a significant collateral consequence arising from his conviction, and we therefore do not address the merits of his claims of error. For the above reasons, the trial court did not err in denying *coram nobis* relief.

**JUDGMENTS OF THE CIRCUIT COURT
FOR WASHINGTON COUNTY
AFFIRMED. COSTS TO BE PAID BY
APPELLANT.**