Circuit Court for Baltimore City
Case No. 192324-028

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

MARYLAND

No. 1618

September Term, 2017

GARY WARD, JR.

v.

STATE OF MARYLAND

Meredith,
Wright,
Raker, Irma S.
(Senior Judge, Specially Assigned),
JJ.

Opinion by Raker, J.

Filed: October 12, 2018

Appellant Gary Ward filed a Petition for Writ of Actual Innocence in the Circuit Court for Baltimore City, claiming that because of the Court of Appeals's holding in *Clemons v. State*, 393 Md. 339 (2006), that Composite Bullet Lead Analysis (CBLA) evidence is inadmissible at trial, the studies debunking CBLA as unscientific are newly discovered evidence entitling him to a new trial. The circuit court denied his petition. Appellant presents one question for our review:

> Did the lower court err in finding that the newly discovered evidence did not create a significant or substantial possibility of a different outcome?

Holding that the circuit court did not err, we shall affirm.

I.

This case has a long history in the Maryland courts. In 1993, a jury in the Circuit Court for Baltimore City found appellant guilty of first degree murder and use of a handgun in the commission of a crime of violence. The Court of Appeals affirmed his conviction on direct appeal. *State v. Ward*, 350 Md. 372 (1998). On January 4, 2010, appellant filed a petition for writ of actual innocence pursuant to Md. Crim. Proc. § 8-301 on the basis that the Court of Appeals in *Clemons*, 392 Md. at 339, held CBLA evidence to be unreliable and thus inadmissible evidence.[1] In 2012, the Circuit Court for Baltimore City denied the petition, and appellant noted an appeal to this Court. In 2015, this Court held that the

[1] Put simply, CBLA evidence is unreliable because bullets are made from several-ton pieces of lead which are metallurgically similar to one another and in which the tested elements are not evenly distributed. The test therefore yields false positives and false negatives at an unpredictable rate. *See Clemons v. State*, 392 Md. 339, 364–71 (2006).

studies debunking CBLA evidence were newly discovered evidence that may have created a substantial possibility of a different outcome in appellant's trial. We remanded the case for a further hearing to determine whether there was a substantial possibility that the outcome would have been different without the CBLA expert's testimony. *Ward v. State*, 221 Md. App. 146, 170 (2015).

On August 15, 2017, the circuit court determined that the newly discovered evidence did not create a substantial or significant possibility of a different outcome. The court (with a different judge sitting than the judge who heard appellant's initial petition) determined that even without CBLA evidence, the case against appellant was "quite substantial" and would have resulted in convictions without the CBLA evidence. It found the State's eyewitness testimony credible and corroborated by the admissible ballistics evidence introduced in the case. The circuit court denied appellant's petition. This timely appeal followed.

We set forth the facts as set out by this Court in *Ward v. State*, 221 Md. App. 146 (2015):

> "At approximately 11:30 p.m. on September 30, 1992, Alfred Stewart was shot to death in the 1400 block of Cliffview Avenue in Baltimore. In the following days, anonymous callers reported to police that appellant had murdered Stewart. On October 3, police questioned appellant. Although appellant was not charged with the murder at that point, the police impounded appellant's vehicle due to expired tags. After a witness identified appellant from a photographic array as Stewart's killer, police obtained a warrant to search appellant's home and vehicle. Police recovered three .357 caliber 'MAG' hollow point cartridges from the trunk of the vehicle. The murder weapon was never found. Appellant was charged with

first degree murder and the use of a handgun in the commission of a crime of violence.

The circuit court conducted a jury trial in October 1993, with the Honorable Elsbeth Bothe presiding. At trial, the State presented CBLA evidence in an effort to link the bullet fragments found in Stewart's body to the unfired cartridges recovered from appellant's vehicle. In the prosecutor's opening statement, he told the jury that the FBI analysis would show that the bullet that killed Stewart 'came from the same lot as those bullets that were found in defendant's car, the same exact make of bullets from the same lot.' An FBI agent, Ernest Peele, testified that the composition of the fragments was the same as that of the bullets from appellant's car. The agent stated: 'It has the same amount of all the elements present and as such it is consistent with coming from the same source of ammunition.'

Agent Peele's testimony about CBLA included the following assertions:

> 'If comparing two pieces [of bullets] and they have the same composition, the reasonable place to expect that they originated would be from the same homogenous source.
> For instance, they could be from the same piece. **They could be from the same bullet** if you were to take any two small pieces.
> **The next reasonable place** would be via the manufacturer's packaging process, **would be the same box of ammunition. That would be the reasonable place or source of determination to occur.**
> And then it is possible the same type, the same manufacturer packaged on or about the same date because obviously the source could be larger than what would be used in a box.'

During closing arguments at appellant's trial, the prosecutor argued to the jury that, based upon Agent Peele's CBLA testimony, they could find a connection between appellant and the bullets taken from Stewart's body:

> 'We also know that the bullets were recovered from Alfred [Stewart]'s body match the cartridges, which means the bullet and the casing

> that it was in, that was found where? In the Defendant's car. That's a little bit more than coincident, ladies and gentlemen, in light of the fact that you have also have an eyewitness testimony. Got some strong evidence in this case.'

The prosecutor emphasized the connection that had been proved by the CBLA evidence which purportedly showed that the bullets that killed Stewart came from the same box as the bullets found in appellant's car. The prosecutor stated:

> 'This stuff was found right inside the trunk. A box of Winchester Super-X cartridges, silver tip, 357 magnum. Just so happens that the same kind of cartridges that were found. Just so happens that they are consistent with the bullets that are recovered from Al [Stewart]. In fact, **not only consistent, but they match. They match from the same source. They came from the same box.**
> . . . The testimony of the ballistics experts in here may have, on first blush, appeared to be complicated, but one thing that **we know that there was a connection between** Al [Stewart]'s murder weapon and **the bullet that killed him, and what was found in the Defendant's car. That's a fact. That's a fact.**'

The State also presented the testimony of Mohammed Taylor, who was familiar with both appellant and Stewart. Taylor testified that, around midnight on September 30, 1992, he saw appellant and Stewart arguing about drugs which Stewart had recently purchased from appellant. A short time after that, Taylor stated, he heard a gunshot, and he turned around. He testified that he heard two more gunshots and saw Stewart on the ground, and saw appellant running away, holding a gun. Taylor later identified appellant in a photo array.

Alan Wise also testified for the State. At the time of trial, Wise was serving a sentence for an unrelated charge. Wise stated that he had known appellant for a long time. Wise testified that he witnessed appellant fire a silver gun during an

unrelated incident that occurred on September 17, 1992. Additionally, Wise stated that, shortly before the September 30 shooting of Stewart, appellant told Wise that he needed money and that he 'don't want to have to put the gun to nobody mouth . . . .' Wise testified that he was in the vicinity of the September 30 shooting and heard gunshots, but he did not see anything. Appellant represents in his brief: 'Wise has since recanted his testimony in postconviction proceedings [in 2003, at which time Wise testified] that his identification of Gary Ward as the shooter at the earlier incident was a lie.' (The State points out, however, that the postconviction judge discounted Wise's recantation as not being credible.)

At appellant's trial, the State also presented expert ballistics testimony that the bullets recovered from the September 17 shooting were fired by the same caliber of gun as the bullet fragments found in Stewart's body.

Everett Johnson, who lived in the neighborhood and had known appellant for seven years at the time of the shooting, testified on behalf of appellant. Johnson stated that, on the night of September 30, he was talking on the phone when he heard gunshots. He went outside and saw a man standing over another man. Johnson stated that the standing man turned, saw him, and departed. Johnson testified that he did not know the man he saw standing over the body, but it was *not* appellant. Although Johnson observed the unknown man standing over Stewart's body within seconds after hearing the shots fired, Johnson acknowledged that he did not see the shooting.

Appellant's mother and stepfather both testified that appellant was at home watching television at the time of the shooting. Appellant also testified in his case and he denied shooting Stewart. Appellant admitted asking Stewart for money, but denied threatening him. Appellant testified that he had permitted other people to drive his car and did not know anything about the bullets found in the trunk. Appellant professed his innocence, and testified as follows:

> Q. [DEFENSE COUNSEL] Sir, you know that you're charged with shooting Mr. [Stewart].
> A. [APPELLANT] Yes, sir.
> Q. Did you in fact shoot Mr. [Stewart] on September the 30th, 1992?
> [PROSECUTOR]: Objection to the leading nature of the question.

THE COURT: Well —
A. No, I did not shoot Alfred [Stewart].

The jury convicted appellant of first degree murder and the use of a handgun in the commission of a crime of violence. On appeal, in an unreported decision, this Court rejected the arguments asserting error by the trial court, but remanded the case with instructions to hold a suppression hearing concerning the search of the vehicle. *Ward v. State*, No. 69, Sept. Term 1994 (filed November 9, 1994). On remand, the circuit court denied the motion to suppress.

Appellant appealed to this Court a second time. In an unreported decision, we reversed the denial of his motion to suppress and stated: '[W]e are constrained to vacate appellant's convictions.' *Ward v. State*, No. 297, Sept. Term 1996 [*154] (filed January 7, 1997). (*See State v. Ward*, 350 Md. at 410-11.) The Court of Appeals, however, reversed this Court's ruling, and ordered that appellant's convictions be affirmed. *State v. Ward*, *supra*, 350 Md. at 389-90.

In April 2003, appellant filed a petition for postconviction relief, which was denied after a hearing. The circuit court also denied his motion to reconsider the denial of his petition for postconviction relief.

On January 4, 2012, appellant filed a petition for a writ of actual innocence pursuant to CP § 8-301. Appellant argued that newly discovered evidence—the scientific studies published in 2002 and 2004 and the FBI's 2005 change in policy—called into question the validity of the conclusions that had sometimes been drawn from CBLA reports by expert witnesses such as Agent Peele. Appellant pointed out that the FBI had ceased performing CBLA comparisons in 2005. Appellant asserted that these scientific studies would have rendered the CBLA evidence inadmissible at his trial or, at least, generated a substantial possibility of a different result, and he requested a new trial.

On June 14, 2012, the circuit court conducted a hearing on appellant's petition. Due to the passage of time, the judge who presided over appellant's trial was no longer available, and his petition was heard by a different judge. At the hearing, counsel for appellant argued that the studies published after his trial should be considered newly discovered evidence, stating, in part:

[At the time of appellant's trial,] the scientific community [relative to CBLA] consisted of two people in the FBI.

Because of this closed-world environment, no one had the knowledge to be able to challenge it in a court of law. When [the 2002 and 2004 reports] became available, that's when—at that moment, attorneys were able to look at it and say, wait a minute.

There are statistical errors in here. Wait a minute[;] there are times that a bullet from 1998 could be exact[ly] like a bullet from 1996. Up until that time, nobody knew it. And it wasn't until the science world was allowed in by the FBI that attorneys were able to finally challenge CBLA. That's the point that we're trying to make.

THE COURT: Okay.

[COUNSEL FOR APPELLANT]: So, because it was—it was new to us after this study, and none of that was available to [appellant] at the time [of his trial], so he couldn't challenge it.

THE COURT: So—and you're saying that, if he had been—if he had been able to use the newly discovered evidence, challenging the CBLA, the jury would have disregarded the CBLA, and that he would have been found—the result may—would have—there's a substantial likelihood that the result would have been different; is that what you're telling me?

[COUNSEL FOR APPELLANT]: Close. I'm saying, Your Honor, that a judge in [a] Frye-Reed hearing would never allow CBLA—it certainly wouldn't be allowed today under [*Clemons*, 392 Md. 339]—it would never get to the jury. The jury would never be able to hear CBLA.

> On November 28, 2012, the circuit court filed an opinion and order denying appellant's petition. The court determined that the 2002 and 2004 studies were 'merely impeaching' evidence relative to the expert's testimony at appellant's trial, citing *United States v. Berry*, 624 F.3d 1031, 1043 (9th Cir. 2010), and *United States v. Higgs*, 663 F.3d 726, 743 (4th Cir. 2011). Citing our opinion in *Kulbicki v. State*, 207 Md. App. 412, 438, 53 A.3d 361 (2012), the circuit court also noted that the Court of Appeals's rejection of CBLA evidence in *Clemons v. State*, 392 Md. 339, 896 A.2d 1059 (2006), had been framed as an evidentiary issue which did not have retroactive application. The court further observed that, even if it considered the studies to be newly discovered evidence, appellant had failed to meet his burden of showing a substantial possibility that the jury would have reached a different result at his trial. Appellant noted this appeal.

We held in *Ward v. State*, 221 Md. App. 146 (2015), that the scientific studies debunking CBLA were newly discovered evidence. We remanded the case to the circuit court for that court to consider whether the newly discovered evidence created a substantial possibility of a different outcome. The circuit court determined that debunking the CBLA evidence presented at appellant's trial did not create a substantial possibility of a different outcome and denied appellant's petition for actual innocence. This timely appeal followed.

II.

Before this Court, appellant argues that the circuit court improperly denied his petition for writ of actual innocence because the inadmissible CBLA evidence was admitted and heavily relied upon by the prosecutor at trial such that there is a substantial or significant possibility that the result would have been different without it. Specifically, appellant notes that the State relied heavily on CBLA evidence in opening statement and

closing argument to the jury and that the State acknowledged the questionable credibility of the two key eyewitnesses. He points out that the prosecutor told the jury that it could be confident of appellant's guilt because the CBLA evidence established a "match" between bullets found in appellant's car trunk and the bullets found in the murder victim's body. He argues that other than the clearly inadmissible CBLA evidence, the State's case was based primarily on the testimony of Mr. Taylor, a seventeen-year-old drug dealer, who only identified appellant as the shooter after four hours of interrogation and being told by the police that he could not leave without cooperating in the investigation. He argues further that aside from Mr. Taylor's testimony, the State's case was built on evidence that sought to establish that the bullet found in Mr. Stewart's body was fired from the same gun as bullet evidence found at another shooting two weeks earlier and that appellant was responsible for the earlier shooting. To connect appellant to the earlier shooting, the State relied on Mr. Wise, who testified that he saw appellant firing the gun at that earlier occasion. Appellant argues that Mr. Wise is an incredible witness who was incarcerated at the time he agreed to testify against appellant and has since recanted his testimony.[2] Because, in appellant's view, the State's witnesses were not credible and were likened to, in the prosecutor's words, "dirty, smelly water" with "things floating in it," the inadmissible ballistic evidence was highly prejudicial, and without it, there was a substantial or significant possibility of a different result.

[2] The post-conviction court judge addressed Mr. Wise's recantation and found Mr. Wise's recantation to be incredible.

The State argues that the post-conviction court did not abuse its discretion in finding that there was not a substantial or significant possibility of a different result. The State notes that the post-conviction court followed the proper procedure in analyzing the petition by considering the record from the trial after excising Agent Peele's testimony about the cartridges found in the car tire well and the bullets from Mr. Stewart's body. The court reviewed the trial record absent the inadmissible evidence and concluded that even if the jury discredited Agent Peele's testimony, there was not a substantial possibility of a different outcome. The court found Mr. Wise and Mr. Taylor credible and pointed out physical corroborating evidence, including firearms expert James Wagster's testimony that the bullets from the September 17, 1992 shooting and those extracted from Mr. Stewart's body were fired from the same gun.[3] Therefore, the State argues, there was not a substantial or significant possibility of a different outcome at trial.

III.

To prevail on a petition for a writ of actual innocence raising newly discovered evidence, a petitioner has the burden to persuade the hearing court that, in this case, the scientific studies are newly discovered evidence that could not have been discovered in

[3] In the appeal of the first denial of appellant's writ of actual innocence, this Court stated that the admissible ballistics evidence proved only that the bullets at the two shootings were of the same *caliber*. *Ward v. State*, 221 Md. App. 146, 152 (2015). As the post-conviction court noted correctly on remand, Mr. Wagster's evidence showed that based on the microscopic grooves in the bullet fragments, the bullets recovered from each shooting "had been fired from the same firearm." The "type" of that firearm was "a Smith and Wesson, a Taurus, or a Ruger," and the caliber of the firearm was "either .38, .357 or 9 mm."

time to move for a new trial under Maryland Rule 4-331 *and* that this newly discovered evidence creates a substantial or significant possibility that the result at his trial may have been different. Md. Code, Crim. Proc. Art., § 8-301; *see Hawes v. State*, 216 Md. App. 105, 133 (2014). Section 8-301, Writ of Actual Innocence, provides in pertinent part as follows:

> "(a) A person charged by indictment or criminal information with a crime triable in circuit court and convicted of that crime may, at any time, file a petition for writ of actual innocence in the circuit court for the county in which the conviction was imposed if the person claims that there is newly discovered evidence that:
>
> (1) creates a substantial or significant possibility that the result may have been different, as that standard has been judicially determined; and
>
> (2) could not have been discovered in time to move for a new trial under Maryland Rule 4-331.
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> * * *
>
> (g) A petitioner in a proceeding under this section has the burden of proof."

In addition, the petitioner must show that the evidence supports the claim that the petitioner is actually innocent. *Smith v. State*, 233 Md. App. 372, 413 (2017).

If the petitioner proves the required elements, the court may set aside the verdict, resentence, grant a new trial, or correct the sentence. Md. Code, Crim. Proc. Article, § 8-301(f)(1). We review the lower court's decision on the merits for an abuse of discretion. *Douglas v. State*, 423 Md. 156, 188 (2011). The reviewing court does not disturb the circuit court's ruling unless it is "beyond the fringe of what the court deems minimally

acceptable." *Smith v. State*, 233 Md. App. at 411. We accept the post-conviction court's factual findings unless clearly erroneous. *Id.* at 412.

Here, this Court ruled previously that the reports debunking the validity of CBLA evidence constituted newly discovered evidence. *Ward v. State*, 221 Md. App. 146, 149 (2015). Further, though it was not addressed by the circuit court on remand, ballistics evidence linking appellant to the murder at issue plainly speaks to his guilt or innocence. Therefore, we need only consider the second element—whether the remaining evidence, i.e., without the CBLA evidence, created a substantial or significant possibility that the result of the trial may have been different.

In considering a petition for actual innocence, the hearing court should "look back to the trial that occurred to determine whether the newly discovered evidence created a substantial or significant possibility that the result may have been different." *McGhie v. State*, 449 Md. 494, 511 (2016). The court should consider whether "there was a substantial or significant possibility that, had the jury known of" the issue with the expert's testimony, "the jury would have discounted his testimony in its entirety." *Id.* at 512. After excising any such evidence, the court should also excise any closely related evidence that becomes unsubstantiated or irrelevant upon removal of the expert testimony. Id. at 511–14; *see Kulbicki*, 440 Md. at 55–56. The court should then review the rest of the evidence presented at trial and determine whether there was any substantial possibility of a different outcome.

We set out the hearing court's Ruling and Order in pertinent part, as the judge made extensive findings and conclusions of law.

> "The Court finds that the case against the petitioner without the CBLA testimony, was quite substantial. The State called Alan Wise who had known [appellant] 'almost all his life.' Wise testified that he saw [appellant] on September 17, 1992 two weeks before the shooting in this case, in the 2200 block of Harford Road. At that time, Wise was three feet away from [appellant] and saw [appellant] fire a silver gun.[4] Wise further testified that on September 30, 1992, the date of the shooting in this case, he talked by telephone with [appellant], at around noon, and [appellant] asked Wise for money for rent. [Appellant] further said 'I don't have to have to put the gun to nobody mouth, so help me out.' Wise saw [appellant] later on that same day, at approximately 10 or 10:30 in the evening. At that time, [appellant] again told Wise that [appellant] needed money, 'about 200,' to pay his rent. Wise later heard gunshots in the area. Lastly, Wise testified that he was not using drugs on the night that he saw [appellant] firing a gun, nor did Wise have any cooperation agreement with the State.
>
> The State also called Mohammed Taylor who had known [appellant] for four or five years. Taylor testified that close to midnight on September 30, 1992, he saw the victim, Alfred Stewart, drive up in a Mercedes automobile and exit the vehicle.[5] Taylor admitted that he was selling drugs at the time and was familiar with the victim as both he and [appellant] sold drugs to the victim. The victim told Taylor that the victim had already purchased drugs from [appellant].[6] [Appellant] and the victim then began to argue about 'drugs,' and the victim told [appellant] that he wanted his money back.[7] When the argument began, Taylor was only about seven feet away and Taylor, [appellant], and the victim were the only persons present. Taylor walked away to the next corner, heard a shot,

[4] [Appellant] at trial testified that although he did not shoot a firearm, he was present at the time of the shooting and Wise was present as well.

[5] The Mercedes was found at the crime scene with its engine running and lights on.

[6] The autopsy showed that the victim had cocaine in his system.

[7] When the victim's body was examined at the crime scene, two small vials containing white powder were found in the victim's hand. No analysis of the white powder was ever introduced.

> turned around and heard two more shots.[8] Taylor saw the victim was on the ground and [appellant] running with a gun in his hand. [Appellant] then ran into an alleyway.
>
> Taylor testified that he originally told the police that he was not outside when the shooting began. He further stated that detectives asked him to pick out [appellant]'s picture in a photo array. However, he admitted that he wrote on the back of the photo array that 'I picked this picture that I seen [appellant] and he was the man, and he's the one who did the murder on Harford and Cliffview.' He further testified that he picked out [appellant]'s picture because 'he did the murder.' He was not using drugs that night. As with Wise, Taylor stated that he had received no benefit for his testimony.
>
> The State introduced the testimony of a ballistics expert who examined two bullets recovered from the September 17, 1992 shooting witnessed by Wise and the three bullets recovered from the victim of the shooting on September 30, 1992, witnessed by Taylor. The expert testified that *all* of the bullets recovered were fired from the *same* firearm.[9] The firearm was determined to be either a Smith & Wesson, Taurus, or Ruger handgun, and the caliber of the bullets was either .38, .357, or 9 millimeter.
>
> The State introduced the testimony of the Medical Examiner who performed the autopsy on the victim. The Medical Examiner testified that the victim was shot three times at close range (no further than two and a half to three feet away). The autopsy further revealed that the victim had traces of cocaine in the victim's urine and not in the victim's blood, indicating that the victim had ingested cocaine, but 'not recently.'
>
> The police searched [appellant]'s vehicle three days after the murder and found an empty box of Winchester .357 cartridges and three live Winchester .357 cartridges. No firearm was ever recovered.

[8] The autopsy showed that the victim had three gunshot wounds and three bullets were recovered from the victim's body.

[9] It should be noted that the Court of Special Appeals erroneously stated that "the State also presented expert ballistics testimony that the bullets recovered from the September 17 shooting were fired by the *same caliber of gun* as the bullet fragments found in [the victim's] body."

> [Appellant] presented the testimony of his mother, Cecilia Banks, and his stepfather, Al Banks, who both stated that [appellant] was at home with them watching television at the time of the shooting. Everett Johnson also testified for the defense that he heard three shots and stepped outside to see a person who was not [appellant] going through the victim's pockets. He further stated that he did not see the shooting. Finally, [appellant] testified that he did not shoot the victim. He confirmed that he was present with Alan Wise at the earlier shooting on September 17, 1992, but he [testified that he] did not fire a gun on that date. He further denied knowing anything about any empty ammunition box or ammunition in his car and testified that other persons had access to the car. Lastly, he admitted that Wise was a friend of his and that he had asked Wise for money for rent on September 30, 1992.
>
> The Court finds that the two witnesses, Alan Wise and Mohammed Taylor, provided significant testimony establishing [appellant]'s guilt. Each witness was a longtime acquaintance of [appellant] with absolutely no proven reason to lie or fabricate testimony to frame [appellant]. To the contrary, considering the significant potential for backlash on the streets for 'snitching,' or cooperation with the State, these two individuals had enormous incentive to lie in favor of [appellant]. Their testimony was corroborated by most, if not all, of the other evidence in the case, including each other's testimony, the physical evidence recovered at the scene, the autopsy findings, and even the caliber of the bullets recovered from [appellant]'s car, which were a possible caliber match to the bullets used in the murder. Most importantly, their testimony was absolutely corroborated by the unchallenged, *admissible* ballistics evidence introduced in the case. Alan Wise sees [appellant] shoot a handgun on September 17, 1992, and Mohammed Taylor sees [appellant] with a handgun immediately after the shooting on September 30, 1992. The ballistics expert finds that the bullets recovered in *both* instances were fired from the *same handgun*. The chance that this was a mere coincidence is beyond astronomical. Clearly, this unrefuted, objective evidence establishes that Wise and Taylor saw what they said they saw. This case is unlike the *Kulbicki* case, where the State had to rely so strongly on the CBLA evidence '[b]ecause [as the State argued in the case] we don't have any witnesses who actually saw the Defendant put the gun to the victim's head.' In this case, the State had strong

> eyewitnesses who were bolstered by forensic evidence.[10] Consequently, the Court finds, as another Judge on this bench found five years ago, that the newly discovered evidence does not create a substantial or significant possibility that the result may have been different."

(Citations omitted).

The post-conviction court properly analyzed the trial without any CBLA testimony or argument. Based on the direct and circumstantial evidence, the post-conviction court concluded that there was not a substantial or significant possibility of a different outcome in appellant's trial. We agree with the thorough opinion of the post-conviction court.

We hold that the post-conviction court did not abuse its discretion in concluding that there was no substantial or significant possibility of a different outcome in appellant's trial.

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

[10] [Appellant]'s own trial evidence—alibi testimony by a mother and stepfather, testimony of another witness who ultimately saw little of significance and [appellant]'s own self-serving testimony—had very little probative value. Further, [appellant]'s testimony corroborated many of the details of the testimony of Mr. Wise and Mr. Taylor, except that [appellant] was the shooter on the two dates.