

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 0547

September Term, 2015

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JOSEPH MICHAEL EVANS

v.

STATE OF MARYLAND

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Eyler, Deborah S.,  
Arthur,  
Kenney, James A. III  
(Retired, Specially Assigned),

JJ.

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Opinion by Kenney, J.

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Filed: February 3, 2016

\*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.

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In 1982, appellant, Joseph Michael Evans, pleaded guilty to first-degree felony murder and was sentenced to life imprisonment. In 2014, he filed a petition for a writ of actual innocence pursuant to the provisions of Md. Code (2001, 2008 Repl. Vol., 2015 Supp.), § 8-301 of the Criminal Procedure Article (“C.P.”), and Md. Rule 4-332, alleging newly discovered evidence that created a substantial or significant possibility that the result may have been different, i.e. that he would not have pleaded guilty.

The alleged newly discovered evidence was an affidavit from his co-defendant, Anthony Kordell, who, pursuant to a plea agreement, presumably would have testified against him had appellant elected to go to trial instead of pleading guilty. In the affidavit, Kordell revealed that, owing to his intoxication at the time of the offense, he did not have a personal recollection of the events leading up to appellant’s conviction, and that the information he supplied to the police was based on second-hand information gleaned from conversations he overheard at the detention center and information given to him by the police. After conducting a hearing on the petition, the circuit court denied it.

Appellant filed this timely *pro se* appeal from the circuit court’s denial and presents four questions for our review, which are reducible to one: Did the circuit court abuse its discretion in denying appellant’s petition for a writ of actual innocence?<sup>1</sup>

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<sup>1</sup>Appellant’s questions as presented are as follows:

1. Did the circuit court err by ruling a petition for a writ of actual innocence cannot be granted relief stemming from a guilty plea?

(continued...)

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The Court of Appeals’ decision in *Yonga v. State*, No. 30, Sept. Term, 2015 (filed Jan. 27, 2016), affirming this Court’s decision in *Yonga v. State*, 221 Md. App. 45 (2015), is dispositive of the outcome in this case. In *Yonga*, the Court of Appeals held that: “a person who has pled guilty may not later avail himself or herself of the relief afforded by the Petition for a Writ of Actual Innocence.” *Yonga*, No. 30, Sept. Term, 2015, slip op. at 12, 36. Appellant pleaded guilty in this case and therefore we affirm the circuit court’s denial of his petition for a writ of actual innocence.

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

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<sup>1</sup>(...continued)

2. Did the circuit court err by ruling Anthony Kordell’s recent admission regarding the source of the information he provided the State was not newly discovered evidence?
3. Did the circuit court err by ruling that the newly discovered evidence of Anthony Kordell provided false information to the State could have been discovered in time to move for a new trial under Maryland Rule 4-331?
4. Did the circuit court err by ruling the newly discovered evidence does not create a substantial possibility that appellant’s outcome would have been different when this is an incorrect standard of law?