

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 0666

September Term, 2012

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MICHAEL THEODORE SCOTT

v.

STATE OF MARYLAND

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Meredith,  
Reed,  
Thieme, Raymond G., Jr.  
(Retired, Specially Assigned),

JJ.

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Opinion by Thieme, J.

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Filed: February 5, 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.

In 2001, appellant, Michael Theodore Scott was charged with, among other offenses, first-degree murder, robbery, and a handgun offense for his role in the robbery and shooting of Kerwin Morse. Initially, appellant elected to be tried by a jury, but at the close of the State's case, he elected to enter into a binding plea agreement. That agreement provided that appellant would plead guilty to second-degree murder and use of a handgun in the commission of a crime of violence, and that he would be sentenced to a term of 30 years imprisonment with all but 20 years suspended for second-degree murder, and to a consecutive 20 year term of imprisonment with all but 5 years suspended for the handgun offense. On October 8, 2002, appellant pleaded guilty and was sentenced in accordance with that agreement.

In 2011, appellant 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 he claimed created a substantial or significant possibility that the result of his 2002 guilty plea may have been different. The alleged newly discovered evidence was the affidavit of Aaron Robinson, a State's witness who previously testified to appellant's involvement in the offense. In the affidavit, Robinson explained that appellant had no involvement in the crime, and that he implicated appellant to improve his own plea bargaining position with the State.

On April 20, 2012, the circuit court denied the petition without a hearing. Appellant filed a timely appeal from the circuit court's decision and presents one question for our review:

Did the trial court err in denying the appellant’s petition for a writ of actual innocence without a hearing?

The Court of Appeals decision in *Yonga v. State*, No. 30, Sept. Term 2015 (filed January 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.” (Slip Op. at 12, 36). As a result, because appellant pleaded guilty, we affirm the denial of his petition for a writ of actual innocence.

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