

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1477

September Term, 2015

CHARLES FRANKLIN STANSBURY, JR.

v.

STATE OF MARYLAND

Meredith,
Leahy,
Zarnoch, Robert A.
(Retired, Specially Assigned),

JJ.

Opinion by Zarnoch, J.

Filed: May 31, 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 2004, Charles Franklin Stansbury, Jr., appellant, pleaded guilty, in the Circuit Court for Harford County, to driving on a suspended license and to second-degree assault. Stansbury did not file an application for leave to appeal his conviction. In 2015, more than ten years after his plea, he filed a petition for writ of error coram nobis. In that petition, he alleged that his 2004 guilty plea was the result of ineffective assistance of counsel and that an unrelated habeas corpus petition was erroneously denied.

After a hearing, the circuit court rendered a bench opinion and issued an order denying Stansbury’s petition for writ of coram nobis. Stansbury thereafter noted this appeal, and presented the following question for our review, which we have rephrased:

Did the circuit court err in denying Appellant coram nobis relief?^[1]

For the reasons set forth below, we conclude that the court did not err in denying Stansbury’s petition. Accordingly, we affirm.

BACKGROUND

On October 14, 2004, Stansbury pleaded guilty in the Circuit Court for Harford County to one count of driving while suspended and one count of second-degree assault. He was sentenced to serve two years, with all time suspended on the driving while suspended charge. Regarding the assault, he was sentenced to serve ten years, all but 18 months suspended, with five years of probation upon release.

¹ Stansbury phrased the question as follows: “Did the trial judge, [Angela] M. Eaves, err[] by denying [Stansbury’s] writ of error coram nobis for relief of his constitutional fundamental right to seek collateral consequences for damages for the [time] he served on an [illegal] sentence?”

In 2012, while still on probation, Stansbury was charged and convicted in several, separate incidents of driving while under the influence of drugs or alcohol. This was a violation of his probation and resulted in his probation being revoked. Stansbury did not seek appellate relief from the probation revocation proceedings. Instead he filed a petition for habeas corpus in the circuit court challenging his convictions and custody. On December 22, 2014, the circuit court modified Stansbury’s sentence to time served, which effectively closed the case.

On June 26, 2015, Stansbury filed a pro se petition for a writ of error coram nobis. In the petition, he alleged that the sentences imposed pursuant to his probation revocations were unconstitutional violations of double jeopardy and that he should be compensated for the time “he spent jailed on a manufactured charge and sentence.” On July 9, 2015, the circuit court held a hearing on the matter. The court rendered a bench opinion denying Stansbury’s petition for coram nobis relief. On July 16, 2015, the court entered an order to the same effect. This appeal followed.

DISCUSSION

Stansbury now contends that the circuit court erred in failing to grant his petition for writ of coram nobis because, among other things, 1) it failed to determine that the findings that he violated his probation were arbitrary and capricious; 2) it failed to address “the issue of ineffective assistance of counsel”; 3) it failed to address the two alleged double jeopardy violations; 4) it failed to find that the eight months and twenty

two days he served in jail was a collateral consequence of an illegal conviction.² The State argues that none of the allegations made by Stansbury satisfy the requirements of coram nobis, i.e., that he is a person “who is suddenly faced with a significant collateral consequence of his or her conviction, and who can legitimately challenge the conviction on constitutional or fundamental grounds.” *Skok v. State*, 361 Md. 52, 78 (2000).

“A petition for writ of error coram nobis is an independent, civil action that a convicted individual, who is neither serving a sentence nor on probation or parole, may bring to collaterally challenge a criminal conviction.” *Smith v. State*, 219 Md. App. 289, 292 (2014) (citing *Skok*, 361 Md. at 65, 80). As noted above, the writ of coram nobis is available to a person “who is suddenly faced with a significant collateral consequence of his or her conviction, and who can legitimately challenge the conviction on constitutional or fundamental grounds.” *Skok*, 361 Md. at 78.

As a collateral challenge to a criminal conviction, coram nobis is “an ‘extraordinary remedy’ that is justified ‘only under circumstances compelling such action to achieve justice.’” *Graves v. State*, 215 Md. App. 339, 348 (2013) (quoting *Skok*, 361 Md. at 72) (Internal citations omitted), *cert. granted*, 437 Md. 637 & *appeal dismissed*, 441 Md. 61 (2014). Circumstances that warrant relief must be compelling enough to rebut “the ‘presumption of regularity’ that ordinarily ‘attaches to the criminal case.’”

² Stansbury did not allege ineffective assistance of counsel in his coram nobis petition.

Smith, 219 Md. App. at 292 (quoting *Skok*, 361 Md. at 72). “The burden of demonstrating such circumstances is on the coram nobis petitioner.” *Id.*

To state a cause of action for coram nobis relief, a petitioner must allege:

(1) grounds that are of a “constitutional, jurisdictional or fundamental character,” (2) that he is “suffering or facing significant collateral consequences from the conviction,” (3) that the grounds for challenging the criminal conviction were not waived or finally litigated in a prior proceeding, and (4) that he is not, as a result of the underlying conviction, incarcerated or subject to parole or probation such that he would possess another statutory or common law remedy.

Id. (internal citations omitted).

The failure to prove significant collateral consequences is fatal to a petition for a writ of coram nobis. *Smith*, 219 Md. App. at 292 (citing Maryland Rule 15-1202(b)(1)(F); *Skok*, 361 Md. at 79). Significant collateral consequences frequently come in the form of enhanced civil or criminal penalties in future legal proceedings. In the case resuscitating the writ of coram nobis in Maryland, *Skok v. State*, the Court of Appeals referred to consequences warranting relief as “serious,” “significant,” or “substantial.” 361 Md. at 77-79, 82.

It is no surprise that deportation is considered a significant collateral consequence, nor does it astonish that a 28-month increased sentence is considered a significant collateral consequence. In discussing collateral consequences, the Court of Appeals acknowledged the “proliferation of recidivist statutes throughout the country” and the “recent changes in federal immigration laws, regulations, and administration” that have spurred “a plethora of deportation proceedings against non-citizens based on relatively minor criminal convictions.” *Skok*, 361 Md. at 77. In *Parker v. State*, we held that, in

alleging a potential increase of 28 months of incarceration based on federal sentencing guidelines, a petition described significant collateral consequence of his state conviction that warranted consideration of coram nobis relief. 160 Md. App. 672, 687-88 (2005) (noting, however, that on remand, petitioner would have to prove to the circuit court that he actually suffered an increased sentence as a result of his Maryland conviction).

Here, without regard to whether Stansbury appropriately described fundamental or constitutional errors in his related to his 2004 guilty plea, he has failed to allege in his petition for writ of coram nobis *significant collateral* consequences as a result of his guilty plea. The only collateral consequence suggested by Stansbury was his eight-month sentence of incarceration for violating the terms of his probation. That is a direct, not a collateral, consequence of his guilty plea and his subsequent conviction for driving under the influence. Further, without diminishing the impact that any amount of incarceration can have on a person's circumstances and wellbeing, Stansbury's eight-month sentence does not amount to the significant consequences that justify the granting of the writ. *See, e.g., Skok*, 361 Md. at 77 (deportation); *Parker*, 160 Md. App. at 687-88 (potential increase of 28 months of incarceration was a significant collateral consequence). We agree with the circuit court that Stansbury has failed to satisfy the prerequisites for the writ.

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