

Circuit Court for Washington County
Case No. 21-K-04-34142

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 213

September Term, 2022

AZANIAH BLANKUMSEE

v.

STATE OF MARYLAND

Wells, C.J.,
Tang,
Meredith, Timothy E.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: December 2, 2022

*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.

— Unreported Opinion —

Azaniah Blankumsee, appellant, contends that the Circuit Court for Washington County abused its discretion in denying his petition for writ of actual innocence. For the reasons that follow, we shall affirm the judgment of the circuit court.

We recount some of the pertinent facts from our previous opinions in Mr. Blankumsee's case:

Mark Snyder, age nineteen, and his thirteen-year-old brother, Andrew Snyder, attended a party at their sister's apartment on the evening of March 13, 2004. Numerous other persons were in attendance at the party, including [Mr. Blankumsee].

Terry McKendrick went to sleep at the party; when he awoke, he saw that [Mr. Blankumsee] was pointing a .380 caliber handgun at his face. After fifteen or twenty seconds elapsed, McKendrick, who was scared, sat up and asked [Mr. Blankumsee], "Are you guys cool?" He then asked to see the handgun. Surprisingly, [Mr. Blankumsee] showed it to him.

Fifteen to twenty minutes later, more trouble erupted when [Mr. Blankumsee] hit McKendrick in the face with his fists and then struck two of McKendrick's friends. Shortly thereafter, [Mr. Blankumsee], accompanied by some of his cohorts, left the apartment. The police were then called.

The police arrived at the party, took pictures, and left. Thereafter, Mark Snyder, accompanied by two friends and his younger brother, Andrew, went to a nearby convenience store to buy food. At the store, Mark Snyder encountered [Mr. Blankumsee] and one Tione Blake. Blake confronted Mark Snyder and angrily said, repeatedly, "Bitch, that's dirty that you called the cops on me."

Mark and Andrew Snyder then returned to their sister's apartment. While in the apartment, Israel Martinez and Victor Anderson knocked on the door. When it was opened, they apologized for what [Mr. Blankumsee] had done. They also said that they wanted to talk to Andrew. Andrew left the apartment with Anderson and Martinez and went downstairs with them. Sometime later Andrew was confronted by a group of people, none of whom said anything, except Blake.

With [Mr. Blankumsee] standing next to Blake, the latter put a gun to Andrew's side and said, "Are you holding?" Andrew put his hands up and said, "I ain't holding nothing." Money (about \$8) was then taken out of Andrew Snyder's pocket by Blake

Immediately after the robbery, Andrew Snyder returned to his sister's apartment and, while crying, said that he had been robbed by Blake and [Mr. Blankumsee].

* * *

Three or four minutes after Andrew Snyder's robbery report, the Snyder brothers and a group of other people who were in the apartment went outside with the goal of getting Andrew's money back from the robbers. Shortly after they emerged from the apartment, the group was confronted by [Mr. Blankumsee], Blake, Anderson, and Martinez. [Mr. Blankumsee] pulled a gun. According to later trial testimony of Andrew Biesecker, who was at the party and was among the group who, post robbery, left the apartment with the Snyder brothers, [Mr. Blankumsee] pointed the pistol at Jonathan Dennis Biesecker saw a flash from a gun and saw Jonathan Dennis grab his chest and fall. . . . Other witnesses who testified at trial confirmed that they saw [Mr. Blankumsee] shooting his pistol at the group in which the Snyder brothers and Jonathan Dennis were a part.

Jonathan Dennis died as a result of being struck in the chest by a .22 caliber bullet.

Police investigators found five .380 cartridge casings at the crime scene and one live unfired .22 caliber round.

Four days after Jonathan Dennis was shot, the murder weapon was found in a place where one Tyshawn Jones had hidden it.

Blankumsee v. State, No. 2841, September Term, 2004 (filed August 8, 2006), slip op. at 2-4.

At trial, the parties stipulated to the testimony of Joseph Kopera of the Maryland State Police Forensic Sciences Division. They stipulated to his credentials and that he was an expert in firearms and toolmark comparison, "a recognized scientific field in which bullets and shell casings can be tested to determine if they have been fired in a specific firearm." They further stipulated to Mr. Kopera's expert opinion that the gun recovered was a

“functioning firearm that fired the casings recovered and fired the bullets recovered from the apartments.”

Blankumsee v. State, No. 672, September Term, 2009 (filed December 7, 2010), slip op. at 1-2.

Following trial, Mr. Blankumsee was convicted by a jury of felony murder, multiple counts of attempted second degree murder, use of a handgun in the commission of a crime of violence, and related offenses. *Id.* at 2. On appeal, this Court reversed the conviction for felony murder, but otherwise affirmed the judgments of the circuit court. *Id.*

On March 12, 2020, Mr. Blankumsee filed the petition for writ of actual innocence, in which he stated:

On 3/2/2020, channel five (5) news announced that over 4 thousand cases were being investigated due to recent discovery of Kopera forging his co-workers['] signature[s] on reports, to include: chain of custody and bal[l]istic conclusions[] and vice versa[.]

This newly discovered evidence can of course mean that Kopera's reports, conclusions[,] and evidence used to convict [Mr. Blankumsee were] all tainted, inaccurate, and inadmiss[i]ble[.]

However, just the allegation of such an injustice requires a new trial, [and] dismissal of any and all evidence handled by Mr. Kopera and his office of employment, at the least[.]

Mr. Blankumsee additionally requested that counsel be appointed for him, and that the court hold a hearing on the petition.

On March 28, 2022, the court held a hearing on the petition. Following the hearing, the court denied Mr. Blankumsee's motion for appointment of counsel. The court further denied the petition “as a matter of law.”

Mr. Blankumsee contends that, for numerous reasons, the court abused its discretion in denying the petition and request for counsel. But, Rule 8-411(a) states that an “appellant shall order in writing from the court reporter a transcript containing . . . a transcription of any portion of any proceeding relevant to the appeal that was recorded pursuant to Rule 16-503(b) and that: (A) contains the ruling or reasoning of the court or tribunal, or (B) is otherwise reasonably necessary for the determination of the questions presented by the appeal.” Here, the transcript of the hearing on Mr. Blankumsee’s petition, which presumably contains the court’s rulings and reasoning in support of its denial of the petition, is necessary for our determination of his contention. Mr. Blankumsee has failed to produce the transcript, and hence, he has violated Rule 8-411(a). Also, Mr. Blankumsee did not state in the petition that the convictions sought to be vacated are based on offenses that he did not commit, in violation of Rule 4-332(d)(9) (a petition for writ of actual innocence “shall state . . . that the conviction sought to be vacated is based on an offense that the petitioner did not commit”). *See also State v. Ebb*, 452 Md. 634, 655 (2017) (a petition for writ of actual innocence “must allege which convictions [the petitioner] is ‘actually innocent’ of, meaning which offenses he alleges he ‘did not commit’” (citation omitted)); *Smallwood v. State*, 451 Md. 290, 320 (2017) (“[o]nly defendants who can allege that they are ‘actually innocent,’ meaning they did not commit the crimes for which they are convicted, may bring a petition for” writ of actual innocence); *State v. Hunt*, 443 Md. 238, 255 (2015) (a petition for writ of actual innocence “must assert that the contested conviction is based on an offense that the petitioner did not commit” (internal citation and quotations omitted)). Finally, Rule 4-332(i)(2) states that in an actual innocence

— Unreported Opinion —

proceeding, “the court may appoint counsel” for “a petitioner who has requested the appointment of counsel . . . *unless . . .* the court denies the petition as a matter of law.” (Emphasis added.) Here, the court explicitly denied Mr. Blankumsee’s petition as a matter of law. The court was not required to appoint counsel for Mr. Blankumsee and did not abuse its discretion in denying the petition.

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

AZANIAH BLANKUMSEE

v.

STATE OF MARYLAND

IN THE

SUPREME COURT

OF MARYLAND

Petition Docket No. 159
September Term, 2023

(No. 213, Sept. Term, 2022
Appellate Court of Maryland)

(Cir. Ct. No. 21-K-04-034142)

O R D E R

Upon consideration of the petition for a writ of certiorari to the Appellate Court of Maryland, it is this 22nd day of September 2023, by the Supreme Court of Maryland,
ORDERED that the petition for writ of certiorari is denied as there has been no showing that review by certiorari is desirable and in the public interest.



/s/ Matthew J. Fader
Chief Justice