

SUPREME COURT OF ARKANSAS

Thacker v. State

2016 Ark. 350 (2016) · No. CR-15-1034 · Decided October 20, 2016

SUMMARY

The Arkansas Supreme Court affirmed the denial of Elvis Thacker’s petition for a writ of error coram nobis. The court held that undisclosed police videos were not material to Thacker’s self-defense or suppression arguments and that his allegations of a coerced guilty plea were insufficient and untimely. The court also declined to review his actual-innocence claim because the circuit court had not ruled on it; two justices dissented regarding the need for an evidentiary hearing.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Rhonda K. Wood
JURISDICTION	Arkansas
DECIDED	October 20, 2016
DOCKET	CR-15-1034
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the denial of a petition for writ of error coram nobis following guilty pleas and unsuccessful Arkansas Rule of Criminal Procedure 37 postconviction proceedings.
STANDARD OF REVIEW	Abuse of discretion.
PRECEDENTIAL VALUE	Published Arkansas Supreme Court opinion; precedential.
PARTIES	Elvis Aaron Thacker v. State of Arkansas

TOPICS

- state post-conviction relief
- post-conviction relief
- evidence
- appellate procedure
- actual innocence

PRACTICE AREAS

- Post-conviction criminal procedure
- Coram nobis
- Criminal evidence
- Appellate procedure

QUESTIONS PRESENTED

1. Whether the circuit court abused its discretion by denying coram nobis relief based on allegedly suppressed video evidence under *Brady v. Maryland*.
2. Whether the circuit court abused its discretion by denying coram nobis relief based on an allegedly coerced guilty plea.
3. Whether the court could review Thacker's actual-innocence claim when the circuit court had not ruled on that issue.
4. Whether the circuit court erred by denying the coram nobis petition without a hearing.

HOLDINGS

1. The circuit court did not abuse its discretion in concluding that neither video was material to the Arkansas charges or sufficient to establish a Brady violation. The Taser video was only a limited recording of events immediately before entry, and the body-camera video was recorded after the arrest-related events and concerned statements relating to the Oklahoma investigation.
2. The circuit court did not abuse its discretion by denying coram nobis relief on the coerced-plea claim because the allegations were unsubstantiated, contradicted by the evidence, noncognizable in coram nobis proceedings, or brought after an unjustified four-year delay.
3. The actual-innocence claim was not reviewable because the circuit court did not rule on it.
4. The majority affirmed the denial without a hearing, concluding that Thacker had not developed the argument or provided appropriate authority; the dissent disagreed and would have required a hearing because the petition was not clearly meritless.

KEY QUOTATIONS

“A writ of error coram nobis is an extraordinarily rare remedy.” (2016 Ark. 350, at 3)

“As Thacker cannot show that either video was material to and would have altered the outcome of the case, we hold that the circuit court’s denial of the petition was not an abuse of discretion.” (2016 Ark. 350, at 5)

FACTUAL BACKGROUND

Fort Smith police and Oklahoma law-enforcement officers attempted to arrest Thacker in connection with an Arkansas rape charge and an Oklahoma murder investigation. The officers entered the apartment after an officer posed as an electric-company employee and the officers kicked in the door; during the arrest, Thacker stabbed an officer, was tased, and was shot twice by a detective. Two recordings of the incident were not disclosed to Thacker until years after his guilty pleas: a Taser-camera recording showing a brief period before and after entry and a body-camera recording made after the stabbing, tasing, and shooting.

PROCEDURAL HISTORY

Thacker pleaded guilty in August 2011 to attempted capital murder and kidnapping, receiving an aggregate thirty-year sentence. After unsuccessfully challenging his convictions under Arkansas Rule of Criminal Procedure 37, he filed a coram nobis petition in August 2015 alleging suppressed video evidence, a coerced

guilty plea, and actual innocence. The Sebastian County Circuit Court denied the petition without a hearing, and the Supreme Court of Arkansas affirmed.

DISPOSITION

affirmed

CASES CITED

- Perry v. State, 2014 Ark. 535, 453 S.W.3d 650
- Thacker v. State, 2012 Ark. 205
- State v. Larimore, 341 Ark. 397, 17 S.W.3d 87 (2000)
- State v. Tejeda-Acosta, 2013 Ark. 217, 427 S.W.3d 673
- Grant v. State, 2010 Ark. 286, 365 S.W.3d 894
- Brady v. Maryland, 373 U.S. 83 (1963)
- Strickler v. Greene, 527 U.S. 263 (1999)
- United States v. Bagley, 473 U.S. 667 (1985)
- Barker v. State, 2010 Ark. 354, 373 S.W.3d 865
- Ventress v. State, 2015 Ark. 181, 461 S.W.3d 313
- Westerman v. State, 2015 Ark. 69, 456 S.W.3d 374
- Noble v. State, 2015 Ark. 141, 460 S.W.3d 774
- Weekly v. State, 2014 Ark. 365, 440 S.W.3d 341
- Bryant v. State, 2013 Ark. 305, 429 S.W.3d 193
- Nelson v. State, 2015 Ark. 141, 460 S.W.3d 774
- Nelson v. State, 2014 Ark. 91, 431 S.W.3d 852