

Cite as 2018 Ark. 346  
**SUPREME COURT OF ARKANSAS**  
No. CR-11-227

LEON JACKSON RICE, JR.  
PETITIONER

V.

STATE OF ARKANSAS  
RESPONDENT

Opinion Delivered: December 6, 2018

PRO SE SECOND PETITION AND  
SUPPLEMENTAL PETITION TO  
REINVEST JURISDICTION IN THE  
TRIAL COURT TO CONSIDER A  
PETITION FOR WRIT OF ERROR  
CORAM NOBIS; PRO SE MOTION TO  
RULE ON PRO SE SECOND PETITION  
FOR WRIT OF ERROR CORAM NOBIS  
[PULASKI COUNTY CIRCUIT  
COURT, FOURTH DIVISION, NO.  
60CR-10-1733]

PETITION AND SUPPLEMENTAL  
PETITION DENIED; PRO SE MOTION  
MOOT.

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RHONDA K. WOOD, Associate Justice

Leon Jackson Rice, Jr. filed his second pro se petition and supplemental petition to reinvest jurisdiction in the trial court to consider a petition for writ of error coram nobis. Rice bases his claims on allegations that the State withheld material evidence in violation of *Brady v. Maryland*, 373 U.S. 83 (1963). Because Rice does not meet his burden, we deny his petition and supplemental petition, and his subsequent motion is moot.

A jury convicted Rice of possession of cocaine and resisting arrest. As an habitual offender, he was sentenced to thirty years' imprisonment for possession of cocaine and to a

one-year term in the county jail for resisting arrest, to be served concurrently. The Arkansas Court of Appeals affirmed the convictions and sentences. *Rice v. State*, 2011 Ark. App. 656. Rice's petition for postconviction relief pursuant to Rule 37.1 (2011) of the Arkansas Rules of Criminal Procedure was denied. *Rice v. State*, 2014 Ark. 230 (per curiam). Thereafter Rice filed his first petition to reinvest jurisdiction in the trial court to consider a petition for error coram nobis. Rice alleged in his first coram nobis petition that the State withheld the videotape of his arrest in violation of *Brady*. We denied this first petition. *Rice v. State*, 2016 Ark. 27, 479 S.W.3d 555 (per curiam). Now, Rice raises a new *Brady* claim.

If a judgment has been affirmed on direct appeal, a trial court can only proceed with a petition for writ of error coram nobis after this court has granted permission. *Roberts v. State*, 2013 Ark. 56, 425 S.W.3d 771. A writ of error coram nobis is available for addressing certain errors that are found in one of four categories: (1) insanity at the time of trial, (2) a coerced guilty plea, (3) material evidence withheld by the prosecutor, or (4) a third-party confession to the crime during the time between conviction and appeal. *Howard v. State*, 2012 Ark. 177, 403 S.W.3d 38. In alleging a prosecutor withheld material evidence, a *Brady* violation, one must prove: (1) the evidence at issue is favorable to the accused, either because it is exculpatory or because it is impeaching; (2) the State suppressed the evidence, either willfully or inadvertently; and (3) prejudice ensued. *Carner v. State*, 2018 Ark. 20, 535 S.W.3d 634 (citing *Strickler v. Greene*, 527 U.S. 263 (1999)). In

an application for writ of coram nobis, the petitioner has the burden to show specific facts that substantiate a *Brady* claim. *Mosley v. State*, 2018 Ark. 152, 544 S.W.3d 55.

Rice asserts that at the time of his plea and arraignment, he was unaware that his arrest warrant had been recalled. According to Rice, he waived service of an arrest warrant during his plea and arraignment hearing when he was not yet represented by counsel and any waiver was not knowingly made. He attaches a speed letter that stated the arrest warrant was recalled before being “entered into the system.” Rice contends that the speed letter would have “proven a lack of probable cause and false arrest.” Rice also filed a supplement petition that reasserts the allegations that the prosecution was aware of the “speed letter” and suppressed it.

Rice fails to state sufficient facts to establish a meritorious *Brady* claim because he does not demonstrate that information regarding the recall of the arrest warrant was suppressed or that it is exculpatory. *See Howard*, 2012 Ark. 177, 403 S.W.3d 38. Rice has not offered any support for the allegation that the recall of the arrest warrant was information withheld by the State, and, in fact, Rice merely alleges that it was unknown to him. Nevertheless, it is not exculpatory. We have discussed Rice’s confusion over the role of the recall of the arrest warrant in an earlier appeal. In affirming the denial of his petition for Rule 37.1 relief, this court noted that:

Appellant’s arguments regarding the lack of probable cause seem to stem from his misunderstanding that all criminal proceedings should have ceased when the arrest warrant was recalled. It is apparent from the record, however, that the arrest warrant was recalled because there was no need for its issuance. . . .

*Rice*, 2014 Ark. 230, at 6 n.3.

Furthermore, the documents that Rice attached to his petition include an arrest/disposition report issued by the North Little Rock Police Department. This report reveals that Rice was arrested following a traffic stop where Rice was found to be in possession of crack cocaine and where Rice had also failed to cooperate with the officers, in that Rice tried to pull away from them and began kicking the officers. Thus, Rice was not arrested pursuant to a warrant. As this court noted, the arrest warrant was recalled because its issuance was unnecessary and not because it was invalid. *Rice*, 2014 Ark. 230, at 6 n.3.

As stated above, the function of the writ of error coram nobis is to secure relief from a judgment rendered while there existed a fundamental error that would have prevented its rendition had it been known at the time of trial. *Roberts*, 2013 Ark. 56, 425 S.W.3d 771. Rice has failed to meet his burden of proof or state facts sufficient to establish the State suppressed evidence or that said evidence was exculpatory in nature. *Id.*

Petition and supplemental petition denied; motion moot.