

Cite as 2022 Ark. 9  
**SUPREME COURT OF ARKANSAS**  
No. CR-14-1088

FRED L. WILLIAMS

PETITIONER

V.

STATE OF ARKANSAS

RESPONDENT

**Opinion Delivered:** January 20, 2022

PRO SE THIRD PETITION AND  
AMENDED PETITION TO REINVEST  
JURISDICTION IN THE TRIAL  
COURT TO CONSIDER A PETITION  
FOR WRIT OF ERROR CORAM  
NOBIS

[DREW COUNTY CIRCUIT COURT,  
NO. 22CR-13-43]

PETITION AND AMENDED  
PETITION DENIED.

---

**BARBARA W. WEBB, Justice**

Petitioner Fred L. Williams brings this pro se third petition and amended petition to reinvest jurisdiction in the trial court to consider a petition for writ of error coram nobis. In the petition and its amended version, Williams contends that the State violated *Brady v. Maryland*, 373 U.S. 83 (1963), by withholding the pretrial statement of a potential witness and the criminal history of a witness for the prosecution. Williams further alleges prosecutorial misconduct, challenges the evidence supporting his conviction, and alleges that he was denied a fair trial. Because we find that Williams has failed to demonstrate a *Brady* violation or otherwise to establish sufficient grounds for issuance of the writ, the petition is denied.

I. *Background*

Williams was convicted by a Drew County jury of first-degree murder and abuse of a corpse in the death of his girlfriend, Tangela Walton, and was sentenced to an aggregate term

of life imprisonment. He appealed, alleging that his conviction was not supported by sufficient evidence. This court affirmed. *Williams v. State*, 2015 Ark. 316, 468 S.W.3d 776.

The evidence adduced at trial demonstrated that on the morning of April 5, 2013, Walton was observed by a witness engaged in a heated conversation on her cell phone with an unidentified person. Later that day, Walton was reported missing by family members, and police questioned Williams, who denied any knowledge of Walton's whereabouts. However, Williams subsequently admitted to investigators that he knew where Walton's body was buried. Thereafter, Williams confessed to causing Walton's death and explained to investigators that Walton had called him on the morning of April 5 to ask if he would like to have sex. He agreed, picked her up, and the two went to Williams's home where they engaged in what Williams described as "freaky" sex that included his tying Walton up and placing a plastic bag over her head. Williams stated that the two were engaging in sex when he had a seizure and "fell out" on Walton, accidentally suffocating her. Williams admitted that when he was unable to revive her, he panicked and carried Walton to a wooded area outside his home and buried her. Williams led investigators to the site where Walton was buried.

On direct appeal, this court found that the evidence sufficient to support Williams's conviction for murder consisted of the following: Williams's admissions to investigators that he placed a plastic bag over Walton's head and tied her up; his attempt to cover up any knowledge of Walton's whereabouts after she disappeared by lying to family, friends, and investigators; Williams's attempts to create an alibi by sending text messages to Walton's cell phone during a time frame in which he later admitted being with her; Williams's disposal of Walton's body and his disposal of a necktie and the plastic bag that Williams claimed had been used during consensual sex with Walton; and the testimony of the forensic examiner that Walton had fresh

injuries on her body that were consistent with an altercation at the time of her death and that there was no indication that Walton had been tied up as claimed by Williams. *Williams*, 2015 Ark. 316, 468 S.W.3d 776.

Williams subsequently filed petitions for postconviction relief including two previous petitions for coram nobis relief. In his first coram nobis petition, Williams enumerated several alleged *Brady* violations connected to Walton's cell-phone records that were contained in the State's exhibit 3. We rejected his *Brady* claims as conclusory and lacking in factual support. *Williams v. State*, 2017 Ark. 145, 516 S.W.3d 722 (per curiam). Williams's additional claims for relief were found to represent direct attacks on the judgment and were therefore not cognizable in coram nobis proceedings. *Id.* In his second petition, Williams argued that the writ should issue because there were flaws in his trial and in his direct appeal, including prosecutorial misconduct, trial error, due-process violations, and appellate counsel's failure to raise all pertinent issues on direct appeal. *Williams v. State*, 2019 Ark. 173. We again rejected his claims as outside the purview of coram nobis relief. *Id.*

## II. *Writ of Error Coram Nobis*

The petition for leave to proceed in the trial court is necessary because the trial court can entertain a petition for writ of error coram nobis after a judgment has been affirmed on appeal only after we grant permission. *Newman v. State*, 2009 Ark. 539, 354 S.W.3d 61. A writ of error coram nobis is an extraordinarily rare remedy. *State v. Larimore*, 341 Ark. 397, 17 S.W.3d 87 (2000). Coram nobis proceedings are attended by a strong presumption that the judgment of conviction is valid. *Green v. State*, 2016 Ark. 386, 502 S.W.3d 524. The function of the writ is to secure relief from a judgment rendered while there existed some fact that would have prevented its rendition if it had been known to the trial court and which, through no

negligence or fault of the defendant, was not brought forward before rendition of the judgment. *Newman*, 2009 Ark. 539, 354 S.W.3d 61. Petitioner has the burden of demonstrating a fundamental error of fact extrinsic to the record. *Roberts v. State*, 2013 Ark. 56, 425 S.W.3d 771. The writ is allowed only under compelling circumstances to achieve justice and to address errors of the most fundamental nature. *Pitts v. State*, 336 Ark. 580, 986 S.W.2d 407 (1999). The burden is on the petitioner in the application for coram nobis relief to make a full disclosure of specific facts relied upon and not to merely state conclusions as to the nature of such facts. *McCullough v. State*, 2017 Ark. 292, 528 S.W.3d 833.

While allegations of a *Brady* violation fall within the purview of error coram nobis relief, the fact that a petitioner alleges a *Brady* violation alone is not sufficient to provide a basis for error coram nobis relief. *Jackson v. State*, 2017 Ark. 195, 520 S.W.3d 242. To merit relief on a claim of a *Brady* violation, a petitioner must demonstrate that there is a reasonable probability that the judgment of conviction either would not have been rendered or would have been prevented had the information been disclosed at trial. *Id.* There are three elements of a *Brady* violation: (1) the evidence at issue must be favorable to the accused, either because it is exculpatory or because it is impeaching; (2) the evidence must have been suppressed by the State, either willfully or inadvertently; (3) prejudice must have ensued. *Carner v. State*, 2018 Ark. 20, 535 S.W.3d 634. Before the court can determine whether a *Brady* violation has occurred, the petitioner must first establish that the material was available to the State prior to trial and that the defense did not have it. *Id.*

### III. *Claims for Relief*

Williams claims that the State violated *Brady* by withholding a pretrial statement provided by Vertrell Davis and by withholding the criminal history of Donna Robinson, a

witness for the prosecution at trial. The burden is on the petitioner seeking a writ of error coram nobis to make a full disclosure of specific facts that substantiate the merit of a *Brady* claim. *Mosley v. State*, 2018 Ark. 152, 544 S.W.3d 55. A court considering a *Brady*-violation claim in a coram nobis petition is not required to take the petitioner's allegations at face value. *Russell v. State*, 2021 Ark. 119, 623 S.W.3d 117.

Here, Williams contends that the State withheld a pretrial statement from Davis but fails to enumerate any exculpatory evidence contained in Davis's alleged pretrial statement. Instead, Williams recounts Davis's disclosure to investigators that Walton was not at home when her children arrived home from school. Williams suggests that Davis spoke to Walton by cell phone on the day of her death and may have encountered her on the same day. Williams speculates that Davis may have had knowledge of how Walton sustained the injuries noted by the forensic examiner and that Davis may have inflicted those injuries himself. Williams implies that the prosecution subpoenaed Davis but did not call him to the stand in order to withhold crucial evidence regarding Davis's interactions with Walton on the day of her death. Williams provides no factual support for his conclusory and speculative allegations regarding Davis, and Williams admits that he knew at the time of trial that Davis was a potential prosecution witness who, therefore, could have been subpoenaed by the defense. Williams fails to establish that Davis's involvement in the investigation of Walton's disappearance and death was not a fact that was extrinsic to the record. *Roberts*, 2013 Ark. 56, 425 S.W.3d 771.

With respect to Robinson, Williams contends that in exchange for Robinson's testimony that she had a sexual relationship with Williams in the days leading up to Walton's death, the Arkansas State Police did not charge Robinson with having fraudulent car tags and

failing to obtain car insurance. Again, Williams provides no factual support for this conclusory allegation.

Moreover, Williams fails to demonstrate that he was prejudiced by the above-cited alleged *Brady* violations. When a petitioner alleges a *Brady* violation as the basis for his or her claim for relief in coram nobis proceedings, the facts alleged in the petition must establish that material and prejudicial evidence was withheld such that it would have prevented the rendition of the judgment had the existence of the evidence been known at the time of trial. *Russell*, 2021 Ark. 119, 623 S.W.3d 117. Evidence is material if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different. *Id.*

Here, the evidence supporting Williams's conviction included Williams's own admission that he caused Walton's death by tying her up and placing a plastic bag over her head and his conduct following Walton's death, such as disposing of her body, lying to investigators as well as to family and friends, and attempting to create a false alibi. *See Williams*, 2015 Ark. 316, 468 S.W.3d 776. Williams's claim that Davis and Robinson were key witnesses in the State's investigation and in its trial of the case is not supported with facts. Evidence that Davis may have also interacted with Walton on the day she died and evidence that Williams's relationship with Robinson was platonic would not have changed the outcome of the trial when Williams's own admissions and conduct following Walton's death are taken into consideration.

Williams's remaining claims in his petition and amended petition include allegations of prosecutorial misconduct, challenges to the sufficiency of the evidence, and general complaints that he was denied a fair trial. Williams again laments statements made by the prosecutor during the opening statement and closing argument as he did in a previous coram nobis petition. This

time, Williams contends that the prosecutor misrepresented to the jury that Williams was the individual who was overheard arguing with Walton on her cell phone before her death. Assertions of prosecutorial misconduct that could have been raised during trial are not allegations of material evidence withheld by the prosecutor and therefore are not claims that fall within the purview of coram nobis relief. *King v. State*, 2021 Ark. 84. Williams alleges that his conviction was the result of perjury abetted by the prosecution and that the evidence supporting his intent to commit murder was weak and circumstantial. Claims that attack the sufficiency of the evidence or the credibility of witnesses constitute a direct attack on the judgment and are not cognizable in a coram nobis proceeding. *Jones v. State*, 2020 Ark. 338, 609 S.W.3d 375. Finally, Williams contends that he was denied due process and a fair trial because the evidence presented at trial was inconsistent with the facts set out in the affidavit executed by investigators to obtain an arrest warrant. Claims that a petitioner could have known, or knew, at the time of trial do not provide grounds for issuance of the writ of error coram nobis. *Ashley v. State*, 2021 Ark. 89.

Petition and amended petition denied.

*Fred L. Williams*, pro se petitioner.

*Leslie Rutledge*, Att’y Gen., by: *Karen Virginia Wallace*, Ass’t Att’y Gen., for respondent.