

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT KNOXVILLE

Assigned on Briefs August 11, 2026, in Nashville

STATE OF TENNESEE v. ALEXANDER CARINO

Appeal from the Criminal Court for Cumberland County
No. 09-0016A Wesley Thomas Bray, Judge

No. E2026-00300-CCA-R3-ECN

The Petitioner, Alexander Carino, appeals the coram nobis court's summary dismissal of his petition for writ of error coram nobis based upon newly discovered evidence as being time-barred. On appeal, we affirm the coram nobis court's summary dismissal of the petition as being time-barred.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Criminal Court Affirmed

ROBERT W. WEDEMEYER, P.J., delivered the opinion of the court, in which ROBERT H. MONTGOMERY, JR., and J. ROSS DYER, JJ., joined.

Alexander Carino, Hartsville, Tennessee, Pro Se.

Jonathan Skrmetti, Attorney General and Reporter; William C. Lundy, Assistant Attorney General; Bryant C. Dunaway, District Attorney General; and Philip Hatch, Assistant District Attorney General, for the appellee, State of Tennessee.

OPINION

I. Procedural Background

The Petitioner, *pro se*, appeals the trial court's dismissal of his petition for writ of error coram nobis based upon newly discovered evidence. In 2010, the Petitioner pleaded guilty to two counts of second degree murder, and this court summarized the initial procedural history as follows:

A Cumberland County [g]rand [j]ury indicted the Petitioner and his codefendant for two counts of first degree felony murder committed "during the attempted perpetration of an especially aggravated robbery" and one count of especially aggravated robbery. The Petitioner pleaded guilty to two counts of second degree murder, and he received consecutive sentences of

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twenty-one years and six months' confinement at 100% service. The especially aggravated robbery charge was dismissed upon the Petitioner's pleading guilty to two counts of second degree murder. The Petitioner did not seek appellate or post-conviction relief.

Carino v. State, No. M2017-00345-CCA-R3-HC, 2017 WL 3311196, at *1 (Tenn. Crim. App. Aug. 3, 2017), *perm. app. denied* (Tenn. Nov. 17, 2017). The Petitioner filed a habeas corpus petition, and this court affirmed the trial court's denial of habeas corpus relief. *Id.*

In February 2018, the Petitioner filed an untimely petition for post-conviction relief, asserting that the one-year statute of limitations should not apply because his attorney "refused" to file an appeal on the Petitioner's behalf and "failed" to timely provide the Petitioner with his case file. *Carino v. State*, No. E2008-00775-CCA-R3-PC, 2018 WL 5780231, at *3 (Tenn. Crim. App. Nov. 2, 2018), *perm. app. denied*. (Tenn. Feb. 20, 2019). The post-conviction court summarily dismissed the petition, finding that it lacked jurisdiction because the Petitioner pleaded guilty in 2010 and the petition was not filed until 2018. This court affirmed the dismissal of the petition as being time-barred. *Id.*

In September 2020, the Petitioner filed a second petition for post-conviction relief. *Carino v. State*, No. E2020-01435-CCA-R3-PC, 2021 WL 1541539, at *1 (Tenn. Crim. App. April 20, 2021), *no perm. app. filed*. The post-conviction court summarily dismissed the petition, and this Court, concluding that the Petitioner was not entitled to due process tolling of the statute of limitations, affirmed the dismissal. *Id.*

In 2022, the Petitioner filed a second habeas corpus petition. *Carino v. State*, No. M2022-01036-CCA-R3-HC, 2023 WL 176104, at *1 (Tenn. Crim. App. Jan 13, 2023), *no perm. app. filed* (Tenn. March 8, 2023). This court affirmed the habeas court's dismissal for failure to state a cognizable claim.

At issue in this opinion is the Petitioner's February 2026 filing of a petition for writ of error coram nobis, wherein he sought relief based on newly discovered evidence. As newly discovered evidence, the Petitioner identified sixteen documents from the investigation of his case, a motion to disqualify counsel for one of his co-defendants, and a December 18, 2017 letter of complaint he sent to the Board of Professional Responsibility related to his attorney's performance. The coram nobis court found that the petition was time-barred and that none of the evidence the Petitioner relied upon was newly discovered evidence. Specifically, the coram nobis court found that the "newly discovered evidence" upon which the Petitioner relied had "been of record since before his plea." Consequently, the coram nobis court summarily dismissed the petition. It is from this judgment that the Petitioner now appeals.

II. Analysis

On appeal, the Petitioner contends the coram nobis court erred when it summarily dismissed his petition. Specifically, he argues that there exists “newly discovered evidence” that he was unaware of at the time of his guilty plea. The State submits the coram nobis court properly dismissed the petition. We agree with the State.

The decision to grant or deny a petition for writ of error coram nobis rests within the sound discretion of the trial court. *State v. Hall*, 461 S.W.3d 469, 496 (Tenn. 2015). If a petition for coram nobis relief is granted, the judgment will be set aside, and a new trial will be granted. *State v. Payne*, 493 S.W.3d 478, 485 (Tenn. 2018). “[C]oram nobis petitions with inadequate allegations are susceptible to summary dismissal on the face of the petition, without discovery or an evidentiary hearing.” *State v. Nunley*, 552 S.W.3d 800, 831 (Tenn. 2018).

A writ of error coram nobis is available to convicted defendants based on subsequently or newly discovered evidence. T.C.A. § 40-26-105(a), (b). A writ of error coram nobis, however, is an “extraordinary procedural remedy” that “fills only a slight gap into which few cases fall.” *State v. Mixon*, 983 S.W.2d 661, 672 (Tenn. 1999) (citing *Penn v. State*, 670 S.W.2d 426, 428 (Ark. 1984)). “It may be granted only when the coram nobis petition is in writing, describes ‘with particularity’ the substance of the alleged newly discovered evidence, and demonstrates that it qualifies as newly discovered evidence.” *Nunley*, 552 S.W.3d at 816 (citing and quoting *Payne*, 493 S.W.3d at 484-85). “In order to qualify as newly discovered evidence, ‘the proffered evidence must be (a) evidence of facts existing, but not yet ascertained, at the time of the original trial, (b) admissible, and (c) credible.’” *Id.* (quoting *Payne*, 493 S.W.3d at 484-85).

Additionally, the coram nobis petition must show why the newly discovered evidence “‘could not have been discovered in a more timely manner with the exercise of reasonable diligence’ and how the newly discovered evidence, had it been admitted at trial, ‘may have resulted in a different judgment.’” *Id.* (quoting *Payne*, 493 S.W.3d at 484-85). “The statute presupposes that the newly discovered evidence would be admissible at trial.” *Id.* (citing *Wilson v. State*, 367 S.W.3d 229, 235 (Tenn. 2012)); *State v. Hart*, 911 S.W.2d 371, 375 (Tenn. Crim. App. 1995).

In addition to the requirements regarding specificity, petitions for writ of error coram nobis are subject to a one-year statute of limitations. T.C.A. § 27-7-103. The statute of limitations is calculated from the date the trial court’s judgment becomes final, either thirty days after its entry in the trial court if no post-trial motions are filed or upon entry of an order disposing of a timely, post-trial motion. *Payne*, 493 S.W.3d at 484; *Mixon*, 983 S.W.2d at 670. A petition for writ of error coram nobis may be summarily dismissed if it

fails to show on its face that it has been timely filed because the timely filing requirement in Code section 27-7-103 is an essential element of a coram nobis claim. *Nunley*, 552 S.W.2d at 828.

Due process considerations may toll the one-year statute of limitations when a petitioner seeks a writ of error coram nobis. *Workman v. State*, 41 S.W.3d 100, 101-102 (Tenn. 2001). The “coram nobis statute of limitations may be tolled only if the petitioner produces newly discovered evidence that would, if true, establish clearly and convincingly that the petitioner is actually innocent of the underlying crime of which he was convicted.” *Clardy v. State*, 691 S.W.3d 390, 407 (Tenn. 2024) (citations omitted). The Petitioner “should leave the court with no serious or substantial doubt that the petitioner is actually innocent.” *Id.* at 408.

After review, we conclude that the coram nobis statute is inapplicable in this case. In *State v. Frazier*, our supreme court explicitly held “the coram nobis statute is not available as a procedural mechanism for collaterally attacking a guilty plea.” *Frazier v. State*, 495 S.W.3d 246, 253 (Tenn. 2016). While the record before us does not include the transcript of the guilty plea hearing or the judgment form¹, it is undisputed that the present appeal concerns the Petitioner’s challenge via a petition for writ of error coram nobis to his guilty-pleaded convictions for two counts of second degree murder.

Moreover, even were the Petitioner’s challenge a cognizable claim for error coram nobis, his petition is barred by the one-year statute of limitations, and the Petitioner has failed to establish that due process requires the tolling of the statute

The Petitioner entered his plea on July 16, 2010. Therefore, his judgment became final on August 16, 2010; therefore, the Petitioner had until August 16, 2011, to file a petition. The Petitioner, however, did not file the instant petition for writ of error coram nobis until February 5, 2026—more than ten years after his judgment became final. Further, due process considerations will not toll the statute of limitations in the Petitioner’s case because the evidence upon which the Petitioner relies was available to him before he entered his guilty plea and is, therefore, not “newly discovered evidence” for the purposes of coram nobis.

Accordingly, we conclude the coram nobis court did not abuse its discretion in summarily dismissing the petition. Here, the coram nobis court found that all the alleged

¹ Although the Petitioner did not include the judgment form reflecting his plea in the record, we have taken judicial notice of these procedural facts in the Petitioner’s prior habeas corpus proceeding. *Carino v. State*, No. M2017-00345-CCA-R3-HC, 2017 WL 3311196, at *1 (Tenn. Crim. App. Aug. 3, 2017), *perm. app. denied* (Tenn. Nov. 17, 2017).

newly discovered evidence was readily available before the Petitioner's plea in 2010 and, thus, did not qualify as "newly discovered evidence" sufficient to toll the statute of limitations period. Moreover, the Petitioner offers no valid legal ground for tolling of the statute. The Petitioner is not entitled to relief.

III. Conclusion

Based upon the foregoing authorities and reasoning, the judgment of the coram nobis court is affirmed.

S/ ROBERT W. WEDEMEYER
ROBERT W. WEDEMEYER, PRESIDING JUDGE