

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE  
AT NASHVILLE

Assigned on Briefs August 11, 2026

FILED

10/01/2026

Clerk of the  
Appellate Courts

**VERCHAUNT JOSHUA WILLIAMS v. STATE OF TENNESSEE**

**Appeal from the Circuit Court for Montgomery County**  
**Nos. 63CC1-2012-CR-457, 41200439 William R. Goodman, III, Judge**

---

**No. M2025-00832-CCA-R3-ECN**

---

The Petitioner, Verchaunt Joshua Williams, appeals from the Montgomery County Circuit Court's dismissal of his petition for the writ of error coram nobis. On appeal, he contends that he is entitled to relief on the merits of numerous claims related to his conviction proceedings and that the trial court erred in denying his motion to recuse the court due to an alleged conflict of interests. The State contends, in response, that the appeal should be dismissed as untimely, that the trial court did not err in denying the motion for recusal, and that the court did not err in dismissing the petition. We affirm the judgment of the trial court.

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

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

Verchaunt Joshua Williams (on appeal), Clifton, Tennessee, Pro Se; and Crystal Dawn Wilkerson (at hearing), William Kroeger and Gordon Rahn (pre-hearing), Clarksville, Tennessee, for the Appellant, Verchaunt Joshua Williams.

Jonathan Skrmetti, Attorney General and Reporter; Courtney N. Orr, Deputy Attorney General; Robert J. Nash, District Attorney General; and Dillon Barker, Assistant District Attorney General, for the appellee, State of Tennessee.

**OPINION**

The Petitioner is serving a sentence of life plus five years for his convictions by a Montgomery County jury of first degree premeditated murder, tampering with evidence, and abuse of a corpse, related to the fatal shooting of Brandon Rushing in January 2012. This court affirmed his convictions on appeal, and the Tennessee Supreme Court denied his application for permission to appeal. *State v. Verchaunt Joshua Williams (Williams I)*,

No. M2014-02049-CCA-R3-CD, 2015 WL 5032051 (Tenn. Crim. App. Aug. 26, 2015), *perm. app. denied* (Tenn. Nov. 24, 2015).

The Petitioner has engaged in extensive litigation following his unsuccessful appeal of the convictions. His initial effort to obtain post-conviction relief was unsuccessful. *Verchaunt J. Williams v. State (Williams II)*, No. M2020-00512-CCA-R3-PC, 2022 WL 2282717 (Tenn. Crim. App. June 23, 2022), *perm. app. denied* (Tenn. Nov. 16, 2022). On February 14, 2024, he filed a combined petition for a writ of error coram nobis and motion to reopen his post-conviction petition. The trial court denied the motion to reopen the post-conviction petition. His continuing efforts to reopen his post-conviction petition have been unsuccessful, to date, but are ongoing. *See Verchaunt Joshua Williams v. State (Williams III)*, No. M2025-00837-R28-PC (order) (Tenn. Crim. App. July 16, 2025), *reh'g denied* (Aug. 25, 2025), *perm. app. denied* (Tenn. Feb. 26, 2026); *see also Verchaunt Joshua Williams v. State (Williams IV)*, No. M2026-00545-CCA-R28-PC (order) (Tenn. Crim. App. June 17, 2026), *reh'g denied* (July 8, 2026), *perm. app. filed* (Tenn. July 29, 2026). In addition, the record reflects that the Petitioner has ongoing federal litigation related to the *Williams I* convictions. The error coram nobis component of the February 14, 2024 petition is the subject of the present appeal.

In his February 14, 2024 pro se petition for a writ of error coram nobis and motion to reopen his post-conviction petition, the Petitioner alleged, as relevant to the coram nobis component of the current petition, that he had obtained newly discovered evidence which, if it had been presented at his June 2014 trial, would have led to a different result. He further alleged that, despite his diligent investigation spanning years, he had only discovered the evidence within the past twelve months due to “the misconduct of the Montgomery County District Attorney’s office, and their suppression of exculpatory impeachment materials.” He requested equitable tolling of the statute of limitations. He alleged that the new evidence consisted of information that fell into the following general categories:

- (1) The district attorney’s office suppressed evidence, including court records, that the Petitioner’s trial counsel had simultaneously represented both himself and a State’s witness who had been implicated by a codefendant as a participant in the crimes of which the Petitioner was ultimately convicted and that a prosecutor and trial counsel had misled the court about the conflict of interests. The Petitioner claimed that his dual representation of both the Petitioner and the State’s witness prevented trial counsel from thoroughly cross-examining the State’s witness and from giving the Petitioner any of the facts associated with the State’s witness’s criminal charges.

(2) The district attorney's office suppressed evidence of two witnesses who implicated another individual, who was a State's witness, in the victim's killing. The petition states, "These witnesses directly implicated [the other individual] in the cover up and murder of the victim[.]"

(3) The district attorney's suppressed evidence of a criminal enterprise that was in competition with the victim's own criminal activity and would have provided evidence that the codefendant, another State's witness, and other individuals had a motive and the opportunity to have committed the crimes of which the Petitioner was convicted.<sup>1</sup>

(4) The district attorney's office suppressed material impeachment evidence, including immunity and non-prosecution agreements, related to multiple State's witnesses, one of whom was the codefendant who testified against the Petitioner.

(5) State's witnesses gave perjured testimony about matters related to their personal lives and criminal activities.

The Petitioner later filed a pro se amended petition, in which he reiterated the previous allegations and added an additional claim of newly discovered evidence based upon an as-yet untested gun that was seized when one of the State's witnesses was arrested approximately three months after the crime. The Petitioner alleged that this gun might be the unrecovered murder weapon.

In the petitions, the Petitioner wove several of his allegations of newly discovered evidence into a conspiracy narrative. He alleged that trial counsel concurrently represented the Petitioner and a State's witness who testified at the Petitioner's trial.<sup>2</sup> The Petitioner

---

<sup>1</sup> The Petitioner claimed that he had obtained an affidavit of a third party which was "dispositive . . . of whether [the victim] was murdered due to a conspiracy planned and executed by" one of the people involved in the competing criminal enterprise. In the affidavit attached to the amended petition, a federal inmate stated that he had known the person in question for many years, that the affiant had been involved in criminal activity with the person and had known the person to be involved in criminal activity, that the person was violent, that the person would lie to the authorities, that the person was familiar with firearms and had discharged them in the affiant's presence, and that the person had been unaffected by witnessing people being shot in the person's presence. The affiant made no statements which implicated the person in the homicide of which the Petitioner was convicted.

<sup>2</sup> Although it is not detailed in this court's opinion in *Williams I*, the transcript of the Petitioner's trial reflects that the State's witness testified that the Petitioner came to his house, confessed that "he popped the m-----f-----," and asked the witness to help him dispose of the body, but that the witness refused.

alleged that the State's witness was arrested with a stolen gun about three months after the victim's murder, at which time trial counsel represented the Petitioner, and that the State's witness retained the Petitioner's trial counsel to represent him on gun and drug possession charges. The Petitioner alleged that trial counsel had obtained a favorable plea agreement for the State's witness, whereby the charges were reduced to a single, lesser charge, and the witness never faced a charge related to theft of the gun. The Petitioner alleged that the gun seized from the witness was the same caliber as the never-recovered murder weapon. The Petitioner alleged that trial counsel and the assistant district attorney general who prosecuted the Petitioner did not disclose any of this information to him and misrepresented to the trial court the ongoing nature of trial counsel's representation of the State's witness at a hearing at which the Petitioner was not present. The Petitioner alleged that trial counsel represented to the court that he had represented the State's witness in the past.<sup>3</sup> The Petitioner also alleged that his codefendant, Ojawaine Marbury, implicated the State's witness as an accessory after the fact. The Petitioner further alleged that a family member had recently spoken to an unnamed employee of the district attorney's office, who revealed that the district attorney's office suppressed evidence that two unnamed witnesses "directly implicated [the State's witness] in the cover up and murder of the victim." This information implicated the same State's witness who the Petitioner alleged trial counsel had concurrently represented and who was arrested with the gun that was the same caliber as the unrecovered murder weapon.

The Petitioner filed motions for recusal of the trial judge and for disqualification of the district attorney's office. The Petitioner alleged that the judge was a factual witness with material evidence relevant to the Petitioner's petition for a writ of error coram nobis and to reopen his post-conviction petition. He also alleged that employees of the district attorney's office were material witnesses he intended to call at the hearing on the petitions. The trial court conducted a hearing on the recusal motions. The Petitioner stated that he had filed the motion because he intended to call the judge as a witness at the hearing on the petition and amended petition. The judge responded, "Well, you can call anybody you want to, but the issue is . . . whether they have any testimony to give, and I don't. Your request for recusal is denied." As to the motion to disqualify the district attorney's office, the court found that the prosecutors in the conviction proceedings were no longer employed by the district attorney's office. The court also found that the district attorney general who

---

<sup>3</sup> Trial counsel testified at the post-conviction hearing that he had represented the State's witness in a DUI case before counsel represented the Petitioner in the present case and that he had disclosed the prior representation to the Petitioner. *Williams II*, 2022 WL 2282717, at \*1. The Petitioner testified that counsel disclosed the prior representation. *Id.* In his amended petition, the Petitioner alleged that trial counsel's representation of the State's witness in the DUI case actually occurred after the State's witness's gun and drug charges because the DUI arrest was one month after the gun and drug arrest, all of which was during trial counsel's representation of the Petitioner in the present case.

was in office at the time of the conviction proceedings was no longer the district attorney general. The court denied the motion to disqualify the district attorney's office.

The State filed a motion to dismiss the petition as untimely, alleging that the petition had been filed outside the one-year statute of limitations and that the Petitioner had not produced evidence of actual innocence to support equitable tolling of the limitations period. The trial court conducted a hearing, at which the Petitioner was represented by counsel. No evidence was presented, and the court heard the arguments of counsel. The court filed a written order which dismissed the petition and amended petition as untimely. In the order, the court made the following findings:

The Petition and Amended Petition alleged issues related to ineffective assistance of counsel by virtue of possible dual representation of trial counsel and one (1) of the witnesses, all of which were raised in the original Petition for Post Conviction Relief and determined by the Court of Criminal Appeals to be without merit.

Additionally, Petitioner contends a firearm found at a later date to be in the possession of . . . a [State's] witness at trial . . . was possibly the same caliber as the murder weapon, and that such evidence was just recently discovered. This court does not find that such allegation rises to evidence of actual innocen[c]e.

As argued by the State, the Petitioner filed the Writ of Error Coram Nobis some eight and one-half (8 1/2) year[s] after the expiration of the statute of limitations. The allegations contained in the Petition and Amended Petition are not found to establish by clear and convincing evidence the actual innocen[c]e of the Petitioner.

This appeal followed.

## **II Timeliness of Appeal**

We begin with the State's contention that the appeal should be dismissed because the notice of appeal was not timely filed and that this court should not waive the timely filing. The Petitioner responds that the notice of appeal was timely. We agree with the Petitioner.

A notice of appeal shall be filed within thirty days after entry of the judgment from which the appeal is taken. T.R.A.P. 4(a). In criminal cases, the timely filing of a notice of

appeal is not jurisdictional and may be waived in the interests of justice. *Id.* ““In determining whether waiver is appropriate, this court will consider the nature of the issues presented for review, the reasons for and the length of the delay in seeking relief, and any other relevant factors presented in the particular case.”” *State v. Rockwell*, 280 S.W.3d 212, 214 (Tenn. Crim. App. 2007) (quoting *State v. Markettus L. Broylde*, No. M2005-00299-CCA-R3-CO, 2005 WL 3543415, at \*1 (Tenn. Crim. App. Dec. 27, 2005)).

The record reflects the following relevant events:

- The trial court’s order dismissing the Petition was filed on April 24, 2025.
- A “Notice of Appeal” was filed on June 9, 2025, and its certificate of service states that the notice was mailed to the clerk of this court and to the Attorney General on May 8, 2025. The electronically generated and printed postage stamps on the envelope bear the date May 12, 2025, and a separate postal sticker attached to the envelope bears the date May 14, 2025. Another postal sticker indicates that the envelope was sent via certified mail. The envelope was stamped as received by the clerk of this court on June 9, 2025.
- A “2nd Notice of Appeal” was filed on May 30, 2025. The Petitioner stated in the document that he was filing a 2nd notice of appeal “due to complications with the United States Post Office.” Indeed, the second notice of appeal was filed before the first. The second notice of appeal included a certificate of service stating that the document had been mailed to the clerk of this court and to the Attorney General on May 27, 2025. The envelope was postmarked May 29, 2025, and it was stamped as received by the clerk of this court on May 30, 2025.
- The Petitioner’s counsel filed a motion to withdraw on May 28, 2025, and the trial court granted the motion on June 17, 2025. The court’s order stated, in part, “Counsel has advised defendant he had thirty days to file Notice of Appeal. Defendant stated he has already filed notice.” The transcript of the hearing on the motion to withdraw reflects that the Petitioner acknowledged the thirty-day period to file a notice of appeal and stated that he had already filed the notice. After questioning the Petitioner about his desire to proceed pro se and his understanding of the Rules of Criminal Procedure and the Rules of Appellate Procedure, the court also granted the Petitioner’s request to proceed pro se.

Tennessee Rule of Appellate Procedure 20 provides, in pertinent part:

**(a) Filing.** Papers required or permitted to be filed in the appellate court shall be filed with the clerk. Filing shall not be timely unless the papers are received by the clerk within the time fixed for filing or mailed to the office of the clerk by certified return receipt mail or registered return receipt mail within the time fixed for filing. Filing will also be timely if placed for delivery with computer tracking, either through a commercial delivery service or the United States Postal Service, within the time fixed for filing.

....

**(g) Filing by Pro Se Litigant Incarcerated in Correctional Facility.** If papers required or permitted to be filed pursuant to the rules of appellate procedure are prepared by or on behalf of a pro se litigant incarcerated in a correctional facility and are not received by the clerk of the court until after the time fixed for filing, filing shall be timely if the papers were delivered to the appropriate individual at the correctional facility within the time fixed for filing. This provision shall also apply to service of papers by such litigants pursuant to the rules of appellate procedure. “Correctional facility” shall include a prison, jail, county workhouse or similar institution in which the pro se litigant is incarcerated. Should timeliness of filing or service become an issue, the burden is on the pro se litigant to establish compliance with this provision.

In his reply brief, the Petitioner argues that his notice of appeal was timely because “[t]he certified mail receipt reflected mailing on May 24, before the expiration of the filing deadline.” We agree. The incarcerated Petitioner had two options in this case: he could proceed under Rule 20(a) and send his pro se notice of appeal via certified mail, or he could proceed under Rule 20(g) and send his notice of appeal by delivering it for mailing to the appropriate individual in the correctional facility and bear the burden of proving that he did so within the time prescribed for filing a notice of appeal. *See* T.R.A.P. 4(a), 20(a), (g). He chose the former. The certified mail documentation attached to the envelope in which his first notice of appeal was sent reflects that the notice of appeal was filed within the thirty-day limitations period. *See* T.R.A.P. 20(a). The notice of appeal was timely.

## II

### **Motion to Recuse**

The Petitioner contends that the trial court erred in denying his motion to recuse the trial judge. The State responds that the court did not err. We agree with the State.

The Code of Judicial Conduct provides:

(A) A judge shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to the following circumstances:

(1) The judge had a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge of fact that are in dispute in the proceeding.

Tenn. Sup. Ct. R. 10, Canon 2, Rule 2.11(A)(1). A judge should grant a motion to recuse if the judge has any doubts about the judge's ability to preside impartially. *Alley v. State*, 882 S.W.2d 810, 820 (Tenn. Crim. App. 1994); see *Lackey v. State*, 578 S.W.2d 101, 104 (Tenn. Crim. App. 1978). Likewise, recusal is appropriate "when a person of ordinary prudence in the judge's position, knowing all the facts known to the judge, would find a reasonable basis for questioning the judge's impartiality." *Alley*, 882 S.W.2d at 820 (citing *State v. Cash*, 867 S.W.2d 741 (Tenn. Crim. App. 1993)). An appellate court conducts a de novo review of a trial court's denial of a motion to recuse. Tenn. Sup. Ct. R. 10B, § 2.01.

In the trial court, the Petitioner filed a motion for recusal of the trial judge on the basis that the judge was a necessary and material witness to matters alleged in the petition. In his brief and in other pleadings filed in this court, the Petitioner has added allegations that the trial judge was prejudiced against him and could not preside impartially. To the extent that the Petitioner has raised these new allegations for the first time on appeal, our consideration of them is waived. See T.R.A.P. 36(a). We will review the trial judge's ruling on the recusal motion based upon the Petitioner's allegation that the judge was a necessary and material witness to the error coram nobis claim.

To that end, the Petitioner made allegations in the petition and at the hearing that the judge had knowledge of relevant facts. The Petitioner did not specify the facts to which he anticipated the judge could testify if he were called as a witness. The judge found that he had no factual knowledge of the Petitioner's allegations in the petition. The evidence does not preponderate against the judge's factual determination. The trial court did not err in denying the motion for recusal. See *Alley*, 882 S.W.2d at 820.

### III

#### Dismissal of Petition

Thus, we move to consideration of whether the petition, which was filed outside the statute of limitations for filing a petition for error coram nobis, was entitled to due process

tolling. The Petitioner contends that the trial court erred in dismissing his petition. He argues that he raised numerous recently discovered claims and that the court failed to conduct a meaningful analysis of the merits of these claims. He has devoted most of his 105-page brief to argument on the merits of his substantive claims. The State responds that the court did not err in dismissing the petition. We agree with the State.

A timely writ of error coram nobis lies “for subsequently or newly discovered evidence relating to matters which were litigated at the trial if the judge determines that such evidence may have resulted in a different judgment, had it been presented at the trial.” T.C.A. § 40-26-105(b) (2025); *State v. Hart*, 911 S.W.2d 371, 374 (Tenn. Crim. App. 1995); see *Cole v. State*, 589 S.W.2d 941 (Tenn. Crim. App. 1979). Newly discovered evidence “must be (a) evidence of facts existing, but not yet ascertained at the time of the original trial, (b) admissible, and (c) credible.” *Nunley v. State*, 552 S.W.3d 800, 816 (Tenn. 2018). The purpose of a coram nobis proceeding “is to bring to the attention of the court some fact unknown to the court, which if known would have resulted in a different judgment.” *State ex rel. Carlson v. State*, 407 S.W.2d 165, 167 (Tenn. 1966). The decision to grant or deny such a writ rests within the sound discretion of the court. *Jones v. State*, 519 S.W.2d 398, 400 (Tenn. Crim. App. 1974); see *Teague v. State*, 772 S.W.2d 915, 921 (Tenn. Crim. App. 1988), *overruled on other grounds by State v. Mixon*, 983 S.W.2d 661 (Tenn. 1999).

A petition for a writ of coram nobis must be filed within one year of the judgment becoming final in the trial court. *Mixon*, 983 S.W.2d at 670. A judgment becomes final “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 filed, post-trial motion.” *Harris v. State*, 301 S.W.3d 141, 144 (Tenn. 2010). “[T]he statute of limitations . . . is not an affirmative defense that must be specifically raised by the State in error coram nobis cases; instead, the . . . petition must show on its face that it is timely filed.” *Nunley*, 552 S.W.3d at 829.

A limited exception to the statute of limitations exists when due process requires tolling. *Workman v. State*, 41 S.W.3d 100, 103 (Tenn. 2001). “When a petitioner seeks a writ of error coram nobis based on newly discovered evidence of actual innocence, due process considerations may require tolling of the statute of limitations.” *Harris*, 301 S.W.3d at 145 (citing *Workman*, 41 S.W.3d at 101). A coram nobis petition seeking due process tolling must include facts showing “evidence of actual innocence discovered after expiration of the limitations period,” rather than a showing that the facts may have resulted in a different judgment. *Nunley*, 552 S.W.3d at 282-29. Whether due process principles require tolling the statute of limitations is a mixed question of law and fact and is reviewed de novo with no presumption of correctness. See *Vaughn v. State*, 202 S.W.3d 106, 115 (Tenn. 2006), *abrogated on other grounds by Brown v. Jordan*, 563 S.W.3d 196 (Tenn. 2022).

Our supreme court has clarified that the one-year statute of limitations period “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 [the petitioner] was convicted.” *Clardy v. State*, 691 S.W.3d 390, 407 (Tenn. 2024). In order to satisfy the clear and convincing standard, a coram nobis court “‘must determine that the evidence offered . . . is not vague and uncertain.’ . . . [and] should leave the court with no serious or substantial doubt that the petitioner is actually innocent.” *Id.* at 408 (quoting *State v. Jones*, 450 S.W.3d 866, 893 (Tenn. 2014)). In other words, “‘actually innocent of the offense’ means nothing other than the person did not commit the crime.” *Id.* at 406 (quoting *Keen v. State*, 398 S.W.3d 594, 612 (Tenn. 2012)). “The coram nobis court should first assume *arguendo* that the new evidence cited in the . . . petition is credible, and then determine whether it would clearly and convincingly show that the petitioner ‘did not commit the crime.’” *Id.* (quoting *Keen*, 398 S.W.3d at 612). Furthermore, a petitioner seeking to toll the statute of limitations period “must file his petition no more than one year after [the petitioner] discovers the new evidence of actual innocence.” *Id.* If tolling of the statute of limitations is warranted, a coram nobis court may proceed to address the merits of the petition pursuant to the coram nobis statute. *Clardy*, 691 S.W.3d at 409; see T.C.A. § 40-26-105(b); *Hart*, 911 S.W.2d at 374. This court reviews the decision to grant or to deny error coram nobis relief on the merits of the petition for an abuse of discretion. *Jones*, 519 S.W.2d at 400; *Teague*, 772 S.W.2d at 921.

In making its due process determination of whether the Petitioner’s claims, when taken as credible, demonstrated that the Petitioner was actually innocent of the crimes, the trial court addressed some, but not all, of the Petitioner’s allegations. The court addressed the Petitioner’s claims related to (1) trial counsel’s alleged dual representation of the Petitioner and a State’s witness and (2) the fact that a trial witness was found at some time after the crimes in possession of a gun that was the same caliber as the murder weapon. The court found that the first issue had been previously determined and that the second did not provide clear and convincing evidence of actual innocence. Thus, the court concluded that the Petitioner was not entitled to due process tolling of the one-year statute of limitations for the writ of error coram nobis. The court did not specifically address the Petitioner’s remaining claims, but it found, “The allegations contained in the Petition and Amended Petition are not found to establish by clear and convincing evidence the actual innocen[c]e of the Petitioner.”

We have grouped the allegations of newly discovered evidence in the petition and the amended petition into three broad categories: (1) the district attorney suppressed evidence of trial counsel’s concurrent representation of the Petitioner, evidence that could have been used to impeach the credibility of the State’s witnesses, evidence that other possible suspects existed, and that two witnesses had identified another individual as the

perpetrator; (2) evidence that two State's witnesses committed perjury in their trial testimony about their personal lives and criminal activities; and (3) a gun that might be the murder weapon was possessed by a State's witness when he was arrested about three months after the crime, but the gun was untested.

We acknowledge that in his petition, the Petitioner has alleged numerous perceived shortcomings in the conviction proceedings, as he has done in his past litigation in *Williams II*, *III*, and *IV*. At this late juncture, the Petitioner is entitled to due process tolling on his error coram nobis claim only to the extent that he can establish that he possesses newly discovered evidence, which if taken as true, would show by clear and convincing evidence that he is actually innocent of the crimes of which he was convicted. *Clardy*, 691 S.W.3d at 407. That evidence must show “nothing other than” that he “did not commit the crime[s].” *Id.* at 406. The only allegation which, if true, has this potential is the Petitioner's allegation of suppressed evidence that two unnamed individuals identified the perpetrator as a State's witness who testified against the Petitioner.<sup>4</sup> The Petitioner alleged that the district attorney's office suppressed this evidence, but he offered no specificity about facts underlying this claim in the petition and amended petition. He failed to tender affidavits of these unidentified witnesses, to call them to testify at the hearing on the State's motion to dismiss the petition, or to produce evidence of the existence of such prior statements and the district attorney's suppression of them. The Petitioner alleged in his amended petition that an unidentified family member spoke with an unnamed member of the district attorney's office, who “just confirmed” that the district attorney's case file had information about two unnamed witnesses who had implicated a State's witness “in the cover up and murder of the victim.” The Petitioner did not, however, provide an affidavit of the family member or the employee of the district attorney's office or call them as witnesses at the hearing on the motion to dismiss in order to provide the trial court with the specific facts of this claim.

“[T]he petition must be pled with specificity.” *Id.* at 400. “In the tolling analysis, it is not enough for the petitioner to simply *assert* that the new evidence shows actual innocence.” *Id.* at 405 (emphasis in original). The Petitioner must produce new evidence for the court's consideration. *See id.* at 407. In *Clardy*, the petitioner produced a combination of affidavit with his petition and testimonial evidence when the court held a hearing. *See id.* at 397-98. In the present case, the Petitioner offered only general allegations that two unidentified people had identified a State's witness as having committed the crimes. The Petitioner was represented by counsel at the hearing on the

---

<sup>4</sup> To the extent that the Petitioner alleged a larger conspiracy to implicate him falsely in the crimes and to conceal the guilt of this State's witness, that information is relevant to the tolling inquiry only to the extent that the Petitioner can show new evidence of actual innocence and that another person committed the crimes.

State's motion to dismiss the petition as being untimely. His pro se filings in the trial court reflect that he was not only aware of *Clardy*, but he relied upon it in his bid for relief. He failed, however, to provide specific information about his claims in his petition and amended petition, attach affidavits of the witnesses with relevant information about the claims, or to call those witnesses to testify at the hearing to provide the trial court with evidence to support his allegations.<sup>5</sup> See *id.* at 407; *Steven Skinner v. State*, No. W2020-00385-CCA-R3-ECN, 2021 WL 1157849, at \*6 (Tenn. Crim. App. Mar. 25, 2021) (holding that the trial court did not err in dismissing the petition for a writ of error coram nobis as untimely because the petitioner failed to file affidavits which supported the claims in the petition). *cf.* *State v. Hart*, 911 S.W.3d 371 (Tenn. Crim. App. 1995) (stating in a timely filed habeas corpus case that “[a]ffidavits should be filed in support of the petition or at some point in time prior to the hearing.”).

Having considered the Petitioner's allegations, and having taken them as true to the extent that they would support a claim of actual innocence, we conclude that the Petitioner failed to establish that due process required tolling of the statute of limitations. To the extent that the combined petition sought a writ of error coram nobis, the trial court did not err in granting the State's motion to dismiss the petition. The Petitioner is not entitled to relief on this basis.

In consideration of the foregoing and the record as a whole, the judgment of the trial court is affirmed.

**s/ Robert H. Montgomery, Jr.**  
ROBERT H. MONTGOMERY, JR., JUDGE

---

<sup>5</sup> We emphasize that the trial court was not required to conduct a hearing for due process tolling before making its determination as to whether to dismiss the petition as untimely. See *Nunley*, 552 S.W.3d at 825-26; see also *Clardy*, 691 S.W.3d at 400. Our mention of the Petitioner's failure to present evidence at the hearing on the motion to dismiss is a function of the Petitioner's deficient pleadings. As we stated above, the Petitioner was required to state his allegations “with specificity” in his petition. *Nunley*, 552 S.W.3d at 829; see *Clardy*, 6901 S.W.3d at 400. The Petitioner made vague allegations about unnamed, purportedly exculpatory and newly discovered witnesses without providing the factual details to support his broad claims. He did not attach affidavits of the alleged witnesses which provided the details that the petition and amended petition lacked. Though the trial court could have considered whether to dismiss the petition based on the petition and its attachments, the trial court elected to hold a hearing on the State's motion to dismiss, the Petitioner could have requested that the court permit him to call witnesses to provide the specificity of allegations. Had the court allowed the Petitioner to do so, the Petitioner might have used witness testimony or other evidence to provide the specificity and the evidence that the petition and amended petition failed to provide, and which the court could have considered in determining whether the Petitioner had made a threshold showing of newly discovered evidence that, if presumed credible, provided clear and convincing evidence of his actual innocence, and therefore was entitled to due process tolling of the statute of limitations.