

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT JACKSON

Assigned on Briefs at Knoxville April 23, 2019

EDDIE MEDLOCK v. STATE OF TENNESSEE

**Appeal from the Criminal Court for Shelby County
No. 99-11093, 99-11094 Glenn I. Wright, Judge**

FILED

07/12/2019

Clerk of the
Appellate Courts

No. W2018-01693-CCA-R3-PC

The Petitioner, Eddie Medlock, appeals from the Shelby County Criminal Court's summary dismissal of his petition pursuant to the Post-Conviction DNA Analysis Act of 2001 (the Act), Tennessee Code Annotated sections 40-30-301 to -313 (2018). The post-conviction DNA court denied relief on the basis that DNA analysis of evidentiary items requested by the Petitioner had been performed previously and that the Petitioner's request regarding various forms of scientific analysis of other items was not cognizable under the Act. On appeal, the Petitioner contends that the court erred in dismissing his petition. We affirm the judgment of the post-conviction DNA court.

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

ROBERT H. MONTGOMERY, JR., J., delivered the opinion of the court, in which THOMAS T. WOODALL and ROBERT W. WEDEMEYER, JJ., joined.

Eddie Medlock, Hartsville, Tennessee, Pro Se.

Herbert H. Slatery III, Attorney General and Reporter; Ronald L. Coleman, Assistant Attorney General; Amy P. Weirich, District Attorney General; Leslie Byrd, Assistant District Attorney General, for the appellee, State of Tennessee.

OPINION

The Petitioner is serving a 120-year sentence for two counts of aggravated rape and one count of especially aggravated kidnapping. The proof at the Petitioner's trial showed that the Petitioner, who was the victim's estranged boyfriend, encountered the victim at a duplex they had shared. He hit her with his fists, whipped her with an extension cord, and used the cord and a rope to tie the victim to a chair. While the victim

was tied to the chair, the Petitioner beat her with a board and raped her with a heated coat hanger. The Petitioner dragged her by the hair into a bedroom and raped her a second time. The Petitioner left the victim in the residence after locking the doors and taking the victim's keys. The victim crawled to the living room window and caught the attention of a neighbor, who called the police. The victim was taken to the hospital and received extensive medical treatment. Due to the victim's extreme pain, a limited forensic examination was attempted, and no DNA analysis linked the Petitioner to the incident. *See State v. Eddie Medlock*, No. W2000-03009-CCA-R3-CD, 2002 WL 1549707, at *1-2 (Tenn. Crim. App. Jan. 16, 2002), *perm. app. denied* (Tenn. July 1, 2002).

In 2003, the Petitioner filed a timely petition for post-conviction relief alleging the ineffective assistance of counsel. In April 2005, the Petitioner requested funding for independent DNA testing of evidence collected from the victim. The post-conviction court denied funding but allowed for an interlocutory appeal. This court affirmed the post-conviction court's denial of funding in October 2005, and the Tennessee Supreme Court denied the application for permission to appeal. A hearing was held to address the Petitioner's post-conviction petition on August 5, 2015. *See State v. Eddie Medlock*, No. W2015-02130-CCA-R3-PC, 2016 WL 6135517, at *1-3 (Tenn. Crim. App. Oct. 21, 2016), *perm. app. denied* (Tenn. Feb. 21, 2017).

At the post-conviction hearing, Tennessee Bureau of Investigation (TBI) Special Agent Forensic Scientist Lawrence James testified in response to the Petitioner's claim that trial counsel was ineffective for failing to obtain an independent expert to analyze forensic evidence recovered from the victim. Agent James explained that the TBI now utilized more specialized DNA analysis equipment than what was available at the time of the Petitioner's trial. Agent James said that at the time of the trial, the collected sperm sample was of insufficient size for testing and that a much larger forensic sample was needed to create a DNA profile. Agent James determined that presently, due to more advanced technology, a smaller sample size could be used to create a DNA profile. Using the updated technology, he re-tested the victim's forensic sample. Agent James created a DNA profile of the sperm present in the sample, and it matched the Petitioner's DNA profile. Agent James found two DNA contributors in the sample: the Petitioner was a major contributor, and the victim was a minor contributor. The post-conviction court denied relief, and this court affirmed the denial. *Id.* at *4, *12.

In 2018, the Petitioner filed a petition pursuant to the Act seeking DNA analysis, sexual assault examination analysis, latent fingerprint analysis, and bruising analysis. The State filed a response stating that the Petitioner failed to meet all the criteria required by the Act for DNA analysis and that the other scientific analyses requested were not provided for by the Act. The post-conviction DNA court did not conduct a hearing on the petition and filed a written order summarily dismissing the petition because it failed to state a cognizable claim under the Act.

The Act provides that persons convicted of aggravated rape, among other offenses, may at any time, file a petition requesting the forensic DNA analysis of any evidence that is in the possession or control of the prosecution, law enforcement, laboratory, or court, and that is related to the investigation or prosecution that resulted in the judgment of conviction and that may contain biological evidence.

T.C.A. § 40-30-303 (2018). The Act further provides that if certain criteria exist, testing shall be mandatory:

After notice to the prosecution and an opportunity to respond, the court shall order DNA analysis if it finds that:

- (1) A reasonable probability exists that the petitioner would not have been prosecuted or convicted if exculpatory results had been obtained through DNA analysis;
- (2) The evidence is still in existence and in such a condition that DNA analysis may be conducted;
- (3) The evidence was never previously subjected to DNA analysis or was not subjected to the analysis that is now requested which could resolve an issue not resolved by previous analysis; and
- (4) The application for analysis is made for the purpose of demonstrating innocence and not to unreasonably delay the execution of sentence or administration of justice.

Id. § 40-30-304 (2018).

In other instances, testing may be ordered by the post-conviction DNA court, provided the following criteria exist:

- (1) A reasonable probability exists that analysis of the evidence will produce DNA results that would have rendered the petitioner's verdict or sentence more favorable if the results had been available at the proceeding leading to the judgment of conviction;
- (2) The evidence is still in existence and in such a condition that DNA analysis may be conducted;

(3) The evidence was never previously subjected to DNA analysis, or was not subjected to the analysis that is now requested which could resolve an issue not resolved by previous analysis; and

(4) The application for analysis is made for the purpose of demonstrating innocence and not to unreasonably delay the execution of sentence or administration of justice.

Id. § 40-30-305 (2018).

A post-conviction DNA court is not required to hold a hearing in order to determine whether to grant a petition for DNA testing. *Powers v. State*, 343 S.W.3d 36, 56 (Tenn. 2011). The court must dismiss the petition if the petitioner fails to establish each of the four criteria required pursuant to either Code section 40-30-304 or 40-30-305. *Id.* at 48. The court's determination is not subject to reversal unless it is unsupported by substantial evidence. *See Charles E. Jones v. State*, No. W2014-02306-CCA-R3-PC, 2015 WL 3882813, at *3 (Tenn. Crim. App. June 24, 2015), *perm. app. denied* (Tenn. Sept. 21, 2015); *Willie Tom Ensley v. State*, No. M2002-01609-CCA-R3-PC, 2003 WL 1868647, at *4, n.2 (Tenn. Crim. App. Apr. 11, 2003); *see also State v. Hollingsworth*, 647 S.W.2d 937, 938 (Tenn. 1983) (stating that in matters entrusted to the discretion of the trial court, "the appellate court is not authorized to substitute its judgment for that of the trial court when the judgment of the trial court is supported by substantial evidence").

The Petitioner contends that the post-conviction DNA court erred in dismissing his petition requesting DNA analysis, sexual assault examination analysis, latent fingerprinting analysis, and bruising analysis pursuant to the Act, in contravention of Tennessee Code Annotated sections 40-30-303 and -304(3) and *Powers v. State*, 343 S.W.3d 36, 47-48 (Tenn. 2011). Specifically, the Petitioner asserts that the items of evidence requested for DNA testing, the board and clothes hanger used during the attack of the victim, had not been previously subjected to DNA testing. The State responds that the post-conviction court properly denied the petition for post-conviction DNA analysis because the Petitioner failed to establish that he would not have been prosecuted or convicted or that the verdict or sentence would have been more favorable if the items were tested and the results were favorable to the Petitioner. The State also argues that the Act does not encompass non-DNA scientific testing. We agree with the State.

I. DNA Testing

In its order denying the Petitioner relief, the post-conviction DNA court found that additional DNA testing had already been performed and that the results inculpated the Petitioner. In its response to the Petitioner's request for further testing, the State argued

that the Petitioner failed to meet the required criteria of the Act, and the court agreed. *See* T.C.A. § 40-30-304(1), (3); -305(1), (3). Accordingly, the court dismissed the petition.

In 2015, Agent James re-tested forensic samples recovered from the victim with more advanced DNA technology. The sample contained the Petitioner's DNA as the major contributor and the victim's DNA as a minor contributor. Although the hanger and board used during the victim's attack were not tested, the presence of the Petitioner's DNA in the forensic sample taken from the victim is inculpatory. DNA testing of the coat hanger and board would not resolve any issues not previously resolved by the prior DNA testing, which determined that the sperm in the victim's forensic sample belonged to the Petitioner. There is substantial evidence to support the post-conviction court's determination and the dismissal of the petition. The petitioner failed to establish that he would not have been prosecuted or convicted or that he would have received a more favorable verdict or sentence as a result of DNA analysis. He is not entitled to relief on this basis.

II. Non-DNA Scientific Testing

The post-conviction court also found that the Act does not authorize the sexual assault examination analysis, latent fingerprint analysis, and bruising analysis the Petitioner requested. We agree.

The Act does not authorize non-DNA scientific testing. *See Bondurant v. State*, 208 S.W.3d 424, 431 (Tenn. Crim. App. 2006) ("The plain, clear, and unambiguous language of the statutes at issue in this case allow[s] for DNA analysis, but not additional serological testing."); *Willie L. Pegues v. State*, No. W2018-00830-CCA-R3-PC, 2019 WL 1276318, at *2 (Tenn. Crim. App. Mar. 19, 2019) (holding that the Act does not authorize non-DNA testing). Because the forms of scientific testing the Petitioner sought did not involve DNA analysis, the post-conviction court did not err in dismissing his 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 post-conviction DNA court is affirmed.

ROBERT H. MONTGOMERY, JR., JUDGE