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Court: Man convicted for murder may proceed with actual innocence claim

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A man sentenced to life in prison after he was convicted of being a party to a murder is entitled to file a third post-conviction petition based on statements obtained from participants in the crime alleging that he is innocent and that they were pressured by police to identify him, the 1st District Appellate Court held Thursday.

Carl Williams was one of five men convicted of two counts of first-degree murder, aggravated criminal sexual assault, armed robbery and vehicular hijacking in connection with the 1994 deaths of a man and a woman.

In a confession to Chicago police, Williams indicated that the men agreed to hijack a car and sell its parts. Williams said that he acted as the lookout during the crime.

The victims were both shot, and the woman was sexually assaulted. Williams was not accused of firing the gun or committing the assault.

A Cook County jury convicted Williams in 1996. Three years later, the appellate court rejected his appeal that was based on probable cause for his arrest and ineffective trial counsel, and the Supreme Court declined to hear the case.

In 2001, Williams represented himself in a petition for post-conviction relief, which was denied by the circuit and appellate courts.

Williams filed another pro se post-conviction petition in 2004, attaching affidavits of two participants in the crime stating that the men didn't even know Williams, so he couldn't have participated in the crime.

The affidavits also said that Williams was only identified to police after the participants were shown a photo of Williams and pressured to falsely implicate him.

The second petition was dismissed by the circuit court, and the appellate court

affirmed that the affidavits neither addressed the cause and prejudice requirements of the Post-Conviction Hearing Act, nor did they establish Williams' innocence when weighed against his confession and the fact that another person had identified him.

After that, Williams secured the help of attorneys at Ungaretti & Harris LLP who represented him at no charge. He filed a third petition for post-conviction relief, citing actual innocence and a violation of *Brady v. Maryland*, a U.S. Supreme Court decision that says prosecutors have to provide the defense with evidence that could help the defendant's case.

Williams' third petition stated that three of the men involved in the crime each attested that they told police and a prosecutor that Williams was the "wrong man."

Williams also contended that police and prosecutors didn't tell his trial attorney that the three men had described the fifth offender — alleged to be Williams — as being 6 feet tall and having long hair and a slim build. At the time of his arrest, Williams was about 3 inches shorter than that, and he had short hair and a stocky build.

Regarding his confession, Williams said that he only signed it after he was physically abused by police.

In a 10-page opinion, Circuit Judge Vincent M. Gaughan said that the affidavits did not offer newly discovered evidence that would have changed the trial result.

Gaughan denied Williams leave to file the third petition because it didn't meet the cause and prejudice tests.

On Thursday, the appellate court reversed that decision in an 18-page opinion written by Justice Michael J. Gallagher, with Justices P. Scott Neville Jr. and John Owen Steele concurring.

In the ruling, the justices held that there is a potential to change the trial result based on the statements of two

participants who said that Williams wasn't there and that they initially identified him under police pressure.

The opinion also notes that Williams represented himself in his first two post-conviction proceedings. Given the affidavits attesting to Williams' actual innocence, the panel said that "fundamental fairness" requires the court to consider the claims on their merits.

Williams was represented by Ungaretti attorneys Michael L. Sklar and John T. Ruskusky. Assisting them were Timothy E. Horton and Patrick F. Ross.

"We think that the court took an intelligent, balanced view of all the factors and is giving Mr. Williams an opportunity to have his claims considered that he's never had before, after being incarcerated essentially for 15 years," Sklar said.

In its opinion, the appellate court didn't agree with the state's effort to compare the case to *People v. Harris*, an Illinois case in which a defendant offered affidavits of four people in support of his innocence. In *Harris*, the defendant's brothers said that he was with them at the time of the offense, and his co-defendants said that that they framed him.

In that case, the Supreme Court ruled that the brothers could have offered the alibi testimony earlier and that the affidavits of the co-defendants didn't overcome the evidence of the defendant's guilt. In *Harris*, the appellate court pointed out that an eyewitness identified the defendant as the gunman, and the defendant didn't previously challenge his confession.

The opinion notes that the state "merely describes the facts of *Harris* and offers no argument as to how *Harris* is comparable to this case."

The state was represented by Assistant State's Attorneys James E. Fitzgerald and Mary P. Needham. A spokeswoman for the state's attorney's office could not be reached for comment.

People v. Carl Williams, No 1-08-1286.