

FILED

SEP 25 2017

Rm AJ
CLERK OF DEARBORN CIRCUIT COURT

IN THE DEARBORN SUPERIOR COURT II

STATE OF INDIANA

DANIEL BREWINGTON,
Petitioner,
v.
STATE OF INDIANA,
Respondent.

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CAUSE NO. 15D02-1702-PC-0003

ORDER

This cause comes before the Court on the "Verified Petition for Post-Conviction Relief" filed by the Petitioner, Daniel Brewington. Brewington has filed for summary judgment; the Court finds as follows:

1. Petitioner (hereafter "Brewington") filed his Verified Petition for Post-Conviction Relief on February 22, 2017.
2. The State of Indiana (hereafter "State") filed its answer on March 21, 2017.
3. Brewington filed his "Motion for Summary Judgment" and "Memorandum in Support of Motion for Summary Judgment" on April 3, 2017.
4. The State then filed its "State's Response to Petitioner's Motion for Summary Judgment" on June 8, 2017.
5. Brewington filed his "Motion to Strike" on or about June 14, 2017.
6. Brewington then filed "Petitioner's Reply to State's Response to Petitioner's Motion for Summary Judgment" and supporting "Memorandum" on or about June 19, 2017.
7. Brewington was convicted of Intimidation (3 counts); Attempt to Commit Obstruction of Justice; and Perjury; he was sentenced to five years in the Indiana Department of Corrections.

8. On appeal, the Indiana Court of Appeals reversed two of the convictions. *Brewington v. State*, 981 N.E.2d 585 (Ind.Ct.App. 2013).
9. The Indiana Supreme Court accepted transfer and affirmed the convictions for Intimidating the Judge and Obstruction of Justice on other grounds, and affirmed the Court of Appeals on the other charges. *Brewington v. State*, 7 N.E.3d 946 (Ind. 2014).
10. Brewington was released from imprisonment September 5, 2013.
11. Brewington bases his petition on the grounds listed in paragraphs A through T listed on pages 3 through 6 of his petition.
12. Pursuant to Indiana Rule PC 1 Sec. 4(g), this court may grant a motion by either party for summary disposition of the petition when it appears from the pleadings and answers that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law.
13. Brewington alleges that various parties involved in his prosecution acted conspiratorially, that is, they acted together to alter grand jury transcripts; that the special judge and the prosecutors committed various acts of misconduct; that he was denied effective assistance of counsel, that the trial judge was not impartial, and that his appellate counsel was also ineffective.
14. The State argues that summary judgment is not available in a post conviction relief claim; this court agrees, but does find that summary disposition is still available pursuant to Indiana Rule PC 1 Sec. 4(g).
15. Therefore the court finds that the issue of whether there is a genuine issue of material fact relative to a summary judgment finding as sought by Brewington is


moot, but that summary disposition can still be entered.

16. There is no factual basis to support any of Brewington's claims and/or allegations against the judges and attorneys involved in his case.
17. There is no need for a hearing.
18. Even though the State did not move for summary judgment, based on the undersigned judge's reading of the pleadings and the appellate cases mentioned above, judgment should be entered without a hearing.
19. Brewington's petition should be denied.

IT IS THEREFORE ORDERED:

1. Brewington's "Motion to Strike" is denied.
2. Brewington's "Motion for Summary Judgment" is denied.
3. Brewington's "Verified Petition for Post-Conviction Relief" is denied.

Dated: September 25, 2017



W. Gregory Coy, Special Judge
Dearborn Superior Court No. 2

cc: Daniel Brewington
Prosecutor
Dearborn Superior Court Clerk