

IN THE CIRCUIT COURT OF WASHINGTON COUNTY  
STATE OF MISSOURI

<b>FILED</b>		
O'clock	Minutes	M.
JUL 09 2019		
By <i>Patti Boyce</i>		

MARVIN JENNINGS, )  
)  
Petitioner, )  
)  
v. )  
)  
RICHARD JENNINGS, )  
)  
Respondent. )

Case No. 19WA-CC00168

**DECISION, JUDGMENT, AND ORDER**

A jury in St. Louis City, Missouri convicted Marvin Jennings of five first-degree murders, two first-degree assaults, one armed robbery, and eight armed criminal actions. The court sentenced Jennings to five consecutive sentences of life without parole, two consecutive fifteen-year terms on the assault counts, and nine consecutive terms of life imprisonment on the robbery and armed criminal action counts. Jennings has completed a five-year unlawful use of a weapon sentence from another case. Jennings serves his sentences in the Potosi Correctional Center in Washington County, where Richard Jennings is the warden.

Jennings allegations in this petition are essentially attacks on evidentiary rulings by the trial court that have already been litigated in the ordinary course of review. He presents nothing new here. The petition uses the language of actual innocence, prosecutorial misconduct, use of perjured

testimony, due process, failure to disclose, equal protection, and denial of fair trial. But the factual basis of the complaint is that the trial court admitted out of court statements by witnesses who testified, Blankenship and Lewis, that contained evidence of Jennings's guilt, as prior inconsistent statements, but did not allow Jennings to admit an out of court statement on Jennings's behalf by a witness, who did not testify at trial, Williams. The subject matter of this petition as to witnesses Blankenship, Lewis, and Williams has already been addressed in the consolidated appeal. As a matter of law, Jennings may not litigate it again in a habeas corpus petition. Jennings also mentions the prosecutor's alleged objection to a pretrial statement by witness Benn. Insofar as that is a claim Jennings now raises, it is barred and without merit.

Jennings argues that the prosecutor suppressed exculpatory and impeachment evidence, and knowingly used false and perjured testimony by police officers when the prosecutor successfully objected to the use of an out of court statement by Ricky Williams, who did not testify at trial. Petition at 3–7; 13–17. Jennings also argues that the prosecutor committed misconduct and used perjured evidence by admitting prior statements by Lewis and Blankenship as prior inconsistent statements, when the witnesses gave testimony that contradicted their earlier statements, even though the court ruled the prior statements to be admissible. Petition 7–13.

The Missouri Court of Appeals affirmed the trial court's ruling in admitting the out of court statements by Blankenship and Lewis. Resp. Ex. 4 at 14–23. The Court of Appeals affirmed the trial court's exclusion of the statement by Ricky Williams. *Id.* at 26–28.

“Habeas corpus review does not provide duplicative and unending challenges to the finality of judgment so it is not appropriate to review claims already raised on direct appeal or through post-conviction proceedings.” *State ex rel. Strong v. Griffith*, 462 S.W.3d 732–34 (Mo. 2015). But that is really what Jennings is doing here. He may not do that. Therefore, his habeas claims must fail.

Jennings also appears to allege that the prosecutor committed misconduct by objecting to a pretrial statement by defense witness Anthony Benn, who is the petitioner's cousin. Petition at 7–9. Insofar as this is a claim that Jennings now makes, it is procedurally barred, as it was not raised in the consolidated appeal. Resp. Ex. 4. Additionally, Benn testified at length in the defense case in support of his cousin. Transcript 1885–1932. And a pretrial statement by Benn appears to have been played to the jury without objection. Transcript. 1960–1. Therefore, there would be no reversible error here, were the claim preserved, which it is not.

**WHEFRORE**, this Court denies the petition for the writ of habeas corpus.

7-9-19  
Date

  
The Honorable Troy K. Hyde