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## *Chambers v. State*

Supreme Court of Florida, Division B

January 22, 1934

[NO DOCKET NUMBER]

### Reporter

113 Fla. 786; 152 So. 437; 1934 Fla. LEXIS 1737

ISIAH (IZELL) CHAMBERS, *et al.*, v. STATE

**Prior History:** [\*\*\*1] Petition for leave to apply to the Circuit Court for Broward County for a writ of error *coram nobis*;

### Core Terms

confessions, allegations, attorneys, writ of error coram nobis, circuit court

### Case Summary

#### Procedural Posture

The Circuit Court for Broward County (Florida) adjudged petitioners to be guilty of murder in the first degree and sentenced them to death by electrocution. Petitioners sought leave to file writ of error coram nobis.

#### Overview

One petitioner pleaded not guilty, while the other three petitioners pleaded guilty. The trial court adjudged them each to be guilty of murder in the first degree. The court found that the petition for leave to file writ of error contained allegations that, if true, would constitute grounds for issuing the writ. However, it was not the province of the court to determine the truth of the allegations. A writ of error only was allowed where there was an error of fact in the trial that would have changed the judgment had it been known to the trial court. Petitioners alleged that their confessions were coerced, through fear that certain officers would repeat more torture and brutality upon them. They further alleged that their testimony was false and given under duress. The court agreed that, if the trial was had under the circumstances alleged in the petition, then it was not a fair and impartial trial.

#### Outcome

The court granted leave to file the petition within 30 days.

### LexisNexis® Headnotes

Civil Procedure > Judicial Officers > Judges > Discretionary Powers

Civil Procedure > Judgments > Entry of Judgments > General Overview

Civil Procedure > Judgments > Relief From Judgments > General Overview

**HNI** The writ of error coram nobis that issues for the correction of a judgment entered in ignorance of certain matters of fact, which if they had been known to the court rendering the judgment it would not have been entered, will not be allowed as of course, but only upon its being made to appear with reasonable certainty that there has been some error of fact in the trial of the cause which had it been known to the court the judgment would not have been entered. A writ of error coram nobis will not reach facts actually determined in the original proceedings; nor will it lie when a proper remedy is afforded by appeal or ordinary writ of error, nor for false testimony at the trial, nor newly discovered evidence. The functions of a writ of error coram nobis are limited to an error of fact for which the statute provides no other remedy, which fact did not appear of record or was unknown to the court when judgment was pronounced, and which, if known, would have prevented the judgment, and which was unknown and could not have been known to the party by the exercise of reasonable diligence in time to have been otherwise presented to the court, unless he was prevented from so presenting them by duress, fear or other sufficient cause.

Civil Procedure > Judgments > Relief From Judgments > General Overview

**HN2** The granting by an appellate court of an application for leave to apply to a trial court for a writ of coram nobis in a cause that has been brought to the appellate court by writ of error to review the judgment of the lower court

carries with it no implication that the appellate court has approved the application for the writ as sufficient on the merits. The granting of the permission is merely authority to the trial court to entertain the application and grant it if in the judgment of the trial court the showing made is sufficient.

**Counsel:** *S. D. McGill* and *Robert Crawford*, for Petitioners;

*Cary D. Landis*, Attorney General, and *Louis F. Maire*, State Attorney, for Respondent.

**Judges:** BUFORD, J., WHITFIELD, P. J., and BROWN, J., concur; DAVIS, C. J., and ELLIS and TERRELL, J. J., concur in the opinion and judgment.

**Opinion by:** BUFORD

## Opinion

[\*787] [\*\*437] BUFORD, J. -- After a judgment of the Circuit Court in and for Broward County adjudging each of the several petitioners to be guilty of murder in the first degree and sentencing them each to death by electrocution, as is required under the laws of this State, had been entered and writ of error had been taken to such judgment and it had been affirmed by this Court, the petitioners now come with a petition for leave to apply to the Circuit Court in and for Broward County for a writ of error *coram nobis*.

The record shows that one of the petitioners, Chambers, pleaded not guilty, was tried and convicted, while the other three petitioners pleaded guilty, and thereupon the court heard evidence upon which to determine the degree of their guilt [\*\*\*2] and, after hearing such evidence and considering such pleas, adjudged them each to be guilty of murder in the first degree.

The petition for leave to file writ of error *coram nobis* presents allegations which, if true, would constitute ground for issuing the writ. It is not the province of this Court to determine whether or not such allegations are true. The determination of such question may be had in the circuit court under issues duly made for that purpose.

[\*788] The petition then sets forth that the facts which constitute the basis of the petition were unknown to the petitioners, or to their attorneys who represented them at the trial, or to the court at the time of the trials, verdicts, sentences and judgments. These allegations are shown upon the face of the petition to be false because certainly the petitioners knew on the date of the trial about all things

which they alleged happened to them prior to the date of the trial.

It is alleged in the petition that the attorneys appointed by the court to represent the petitioners at the trial, and who did appear as counsel of record for the petitioners at the trial, made no preparation of the case, made no inquiries [\*\*\*3] and asked no questions of the petitioners in regard to certain confessions upon which the State relied for convictions; that the attorneys made no argument at the trial, or at any other time, filed no motion for new trial, and that the petitioners were without knowledge that the said attorneys represented them in their interests until on or about the day sentence of death was passed upon them. That they are uneducated and that they knew nothing about court matters and are wholly ignorant of court procedure and had no knowledge of their rights or how to protect their interests.

It is alleged "that on June 17, 1933, the day on which sentences of death were passed upon them by the Circuit Judge of Broward County, Florida, said attorneys entered into a stipulation with Hon. Louis F. Maire, State's Attorney for Broward County, Florida, in open court whereby it was agreed between said attorneys that the degree of guilt of each of your petitioners, except Izell Chambers, the evidence and proofs submitted in the case of the State of Florida v. Izell Chambers and heard by the court in the said trial which was relevant and material testimony, should [\*789] be used against your petitioners, [\*\*\*4] Charlie Davis, Jack Williamson and Walter Woodward in considering and determining the degree of unlawful homicide of which said defendants had plead guilty. That said stipulation was entered into by said attorneys without any knowledge or consent on the part of your petitioners and said stipulation was without any authority from these petitioners."

The entire transcript of the records of the trials is made a part of the petition. It is alleged in the petition that the petitioners were severely beaten, cursed and otherwise mistreated by a number of white men in an effort to coerce the petitioners to confess the commission of the homicide with which they were charged, and that this treatment resulted [\*\*438] in the confessions without which conviction could not have been had.

It is further alleged in the petition:

"Your petitioners further represent that on the morning immediately before they were carried by the Sheriff of Broward County, Florida, from the county jail to the circuit court to plead to the indictment found against them, the Sheriff again warned them of the confessions they had

theretofore made during the night of May 20, 1933, and the morning of May 21, 1933, [\*\*\*5] and they were told by him to stick to them, he (the Sheriff) at the same time dangling a large bunch of keys in front of petitioners' eyes, stating to them that unless they did stick, said keys would be turned over to a crowd that night that would be on the outside waiting and your petitioners would be taken by it and lynched. And your petitioners further represent that on the same day Capt. Williams, who had administered most of the tortures and beatings upon them during the past, was present in court with your petitioners when they were called upon to plead to said indictment and [\*790] said Capt. Williams, speaking in a low tone of voice to one of your petitioners said, 'Jack, you are about to be called as a witness and if you don't stick to the truth as you have told us, you will be killed.' And thereafter three of your petitioners plead guilty to the indictment of murder in the first degree, through fear that the tortures and brutalities might again be repeated upon them. Petitioners represent that their heads and bodies still show marks and scars from tortures put upon them by officers or men in the presence of Broward County officers, before the confessions herein were [\*\*\*6] made by them as will more fully appear."

If the trial was had under the circumstances and following the conditions which are alleged in the petition, then it was not a fair and impartial trial. It is true that each of the petitioners testified during the trials that the confessions introduced were made freely and voluntarily and they also testified that the evidence which they gave then upon the stand was freely and voluntarily given. But, their petition alleges that this testimony was false and given under duress. This presents an issue which the petitioners are entitled to have determined by a court of competent jurisdiction.

In the case of *Nickels v. State of Florida*, 86 Fla. 208, 99 Sou. 121, this court said:

**HNI** "The writ of error *coram nobis* which issues for the correction of a judgment entered in ignorance of certain matters of fact which if they had been known to the court rendering the judgment it would not have been entered, will not be allowed as of course, but only upon its being made to appear with reasonable certainty that there has been some error of fact in the trial of the cause which had it been known to the court the judgment would not have been entered.

[\*\*\*7] [\*791] A writ of error *coram nobis* will not reach facts actually determined in the original proceedings; nor will it lie when a proper remedy is afforded by appeal or ordinary writ of error, nor for false testimony at the trial, nor

newly discovered evidence. (Quere: Whether the discretion of the trial judge in refusing the writ is reviewable.)"

"The functions of a writ of error *coram nobis* are limited to an error of fact for which the statute provides no other remedy, which fact did not appear of record or was unknown to the court when judgment was pronounced, and which, if known, would have prevented the judgment, and which was unknown and could not have been known to the party by the exercise of reasonable diligence in time to have been otherwise presented to the Court, unless he was prevented from so presenting them by duress, fear or other sufficient cause."

To like effect was the holding in *Washington v. State*, 95 Fla. 289, 116 Sou. 470.

In *Jennings v. Pope*, 101 Fla. 1476, 136 Sou. 471, we said: **HN2** "the granting by the appellate court of an application for leave to apply to the trial court for a writ of *coram nobis* in a cause which has been brought to the [\*\*\*8] appellate court by writ of error to review the judgment of the lower court carries with it no implication that the appellate court has approved the application for the writ as sufficient on the merits. The granting of the permission is merely authority to the trial court to entertain the application and grant it if in the judgment of the trial court the showing made is sufficient."

It, therefore, appears that the petition presents sufficient grounds to warrant this Court in granting leave for the filing and hearing in the court below of a petition for writ of error *coram nobis*.

[\*792] It is true that the record and stenographer's report of the testimony taken at the trials, which are made a part of the petition presented to this court, show that each of the witnesses to whom it was alleged that the extra-judicial confessions were made each testified that "at the time" of the alleged confessions there was no force or coercion used to procure the confessions but they did not make it clearly appear that force and coercion had not been used prior thereto, which force and coercion resulted in such confessions.

It is also true that each of the defendants testified on the [\*\*\*9] trial that the confessions were freely and voluntarily made and that the respective statements of each made upon the trial was the free and voluntary statement of such defendant as a witness in his behalf, but if it is a fact, as alleged in the [\*\*\*439] petition, that these petitioners were coerced, threatened and frightened in such manner as to cause them against their will to make such statements at that

time they come clearly within the purview of the law as announced in the cases of *Nickels v. State, supra*, and *Washington v. State, supra*.

If the allegations of the petition are not true, they may be traversed in due course in the court below and thereupon the issues as to the truth of such allegations may be judicially determined.

As stated in the case of *Jennings v. Pope, supra*, it is not the province of this Court to determine the truth as to such allegations and the granting of leave to file the petition in the lower court carries with it no intimation concerning the verity of such allegations.

For the reasons stated, leave is granted to present petition to the court below within thirty days as prayed and, accordingly, a copy of this opinion and judgment [\*\*\*10] should [\*793] be transmitted to the Clerk of the Circuit Court of Broward County, Florida, that such further proceedings may be had in accordance with law.

It is so ordered.

WHITFIELD, P. J., and BROWN, J., concur.

DAVIS, C. J., and ELLIS and TERRELL, J. J., concur in the opinion and judgment.