

In the Indiana Supreme Court

James E. Saylor,
Appellant,

v.

State of Indiana,
Appellee.

Supreme Court Case No.
20S-PC-264

Court of Appeals Case No.
19A-PC-857

Trial Court Case No.
39C01-1902-PC-191



Published Order

This case is before the Court on Appellant's petition to transfer jurisdiction filed pursuant to Indiana Appellate Rules 56(B) and 57. Appellant seeks transfer from a Court of Appeals order dismissing the appeal with prejudice, concluding Appellant's second petition for post-conviction relief is a successive petition and the Court of Appeals did not authorize its filing under Indiana Post-Conviction Rule 1(12). *See Saylor v. State*, Order No. 19A-PC-857 (Ind. Ct. App. July 29, 2019), *reh'g denied* (Ind. Ct. App. Aug. 30, 2019).

After the Court of Appeals dismissed Appellant's appeal, this Court handed down *Shaw v. State*, 130 N.E.3d 91 (Ind. 2019). We held Shaw's second post-conviction petition was not a successive petition because it addressed only issues emerging from Shaw's second direct appeal that were not present when Shaw filed his first petition for post-conviction relief. Shaw therefore could pursue his second petition without seeking leave from the Court of Appeals pursuant to Post-Conviction Rule 1(12).

On transfer, Appellant cites *Shaw* and argues his second petition for post-conviction relief raises only issues emerging after the Court of Appeals reversed his habitual offender conviction and remanded for a new trial on that charge. *See Saylor v. State*, No. 39A05-1712-CR-2921, 2018 WL 4270885, *trans. denied*. In response, the State correctly concedes that Appellant may pursue his second petition without prior authorization to the extent it is limited to issues that were not present when he filed his first post-conviction petition and arose only after remand.

Accordingly, the Court GRANTS transfer, VACATES the Court of Appeals order, and REMANDS this case to the trial court to reconsider in light of *Shaw*. On remand, the trial court must consider and decide the merits of only those issues arising after the Court of Appeals reversed Appellant's habitual-offender conviction and remanded for a new trial.

Done at Indianapolis, Indiana, on 4/17/2020.

A handwritten signature in black ink that reads "Loretta H. Rush".

Loretta H. Rush
Chief Justice of Indiana

All Justices concur.