

SUPREME COURT OF GEORGIA

Rolland v. Martin, 281 Ga. 190

637 S.E.2d 23 (2006) · No. No. S06A1632 · Decided October 30, 2006

SUMMARY

The Supreme Court of Georgia held that a verified habeas corpus petition may serve as both a pleading and evidence in a pro se habeas proceeding. Because Rolland’s petition sufficiently alleged that trial counsel failed to file a motion for new trial or notice of appeal after being instructed to do so, the court reversed the denial of habeas relief and remanded for a full consideration of the merits.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Justice Carley; Carley, Justice
JURISDICTION	Georgia
DECIDED	October 30, 2006
DOCKET	No. S06A1632
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Rolland appealed the denial of his verified state habeas corpus petition after the Supreme Court of Georgia granted his application for a certificate of probable cause.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	James Rolland v. Martin, Warden

TOPICS

- state post-conviction relief
- habeas corpus
- ineffective assistance
- right to counsel
- appellate procedure

PRACTICE AREAS

- state post-conviction relief
- criminal procedure
- ineffective assistance
- appellate procedure
- habeas corpus

QUESTIONS PRESENTED

- Whether a verified habeas corpus petition may serve as evidence supporting the petitioner’s ineffective-assistance claim.

2. Whether the habeas court erred by denying relief without considering the factual allegations in Rolland's verified petition and conducting a full hearing on the merits.

HOLDINGS

1. A sufficiently verified habeas corpus petition serves as both a pleading and evidence and may create an issue of fact concerning counsel's failure to file a motion for new trial or notice of appeal.
2. The denial of habeas corpus relief was erroneous because the habeas court was required to consider the verified petition as evidence, hear the case fully, and determine its merits under applicable law.

KEY QUOTATIONS

"A verified pleading may serve as the functional equivalent of an affidavit and suffice to create an issue of fact." (281 Ga. at 190)

"Therefore, the allegations of the verified habeas petition served as evidence supporting the claim of ineffective assistance." (281 Ga. at 191)

FACTUAL BACKGROUND

Rolland was convicted of several counts of burglary and other offenses in 2003. He later filed a verified habeas petition alleging that trial counsel abandoned the case by failing to file a motion for new trial or notice of appeal after Rolland instructed counsel to pursue an appeal. Rolland relied on the verified petition and supporting materials at the habeas hearing, but the habeas court treated him as having presented no evidence and denied relief.

PROCEDURAL HISTORY

After convictions for several burglaries and other charges in 2003, Rolland filed a verified habeas corpus petition in 2005 alleging that trial counsel abandoned the case by failing to file a motion for new trial and notice of appeal after being instructed to pursue an appeal. At the habeas hearing, Rolland relied on his petition, brief, and exhibits, while the Warden presented no evidence. The habeas court denied relief, finding no evidence that counsel abandoned the case or that Rolland requested an appeal. The Supreme Court of Georgia reversed and remanded with direction.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The habeas court must consider the verified petition as evidence, hear the case fully, and determine its merits in accordance with applicable law.

CASES CITED

- State v. Jaramillo, 279 Ga. 691, 693(2), 620 S.E.2d 798 (2005)

- Mitchell v. Forrester, 247 Ga. 622, 623, 278 S.E.2d 368 (1981)
- BEA Systems v. WebMethods, 265 Ga. App. 503, 504, 595 S.E.2d 87 (2004)
- Mountain Bound v. Alliant FoodService, 242 Ga. App. 557, 560(3), 530 S.E.2d 272 (2000)
- Heaton v. Lemacks, 266 Ga. 189(2), 466 S.E.2d 7 (1996)
- Spires v. Relco, 165 Ga. App. 4, 5(2), 299 S.E.2d 58 (1983)
- Accredited Assoc. v. Shottenfeld, 162 Ga. App. 575, 576(1), 292 S.E.2d 417 (1982)
- Foskey v. Smith, 159 Ga. App. 163, 164, 283 S.E.2d 33 (1981)
- Harvard v. Walton, 243 Ga. 860, 862(2), 257 S.E.2d 280 (1979)
- Roe v. Flores-Ortega, 528 U.S. 470, 477(II)(A), 120 S. Ct. 1029, 145 L. Ed. 2d 985 (2000)
- Scott v. Wright, 276 Ga. 12, 13(1), 573 S.E.2d 49 (2002)
- Nash v. State, 271 Ga. 281, 286, 519 S.E.2d 893 (1999)
- Gaither v. Gibby, 267 Ga. 96, 97(1), 475 S.E.2d 603 (1996)
- Ponder v. State, 260 Ga. 840, 842(1), 400 S.E.2d 922 (1991)