

COURT OF APPEALS OF MARYLAND

Blake v. State, 418 Md. 445

15 A.3d 787 (2011) · No. No. 58, September Term, 2010 · Decided March 22, 2011

SUMMARY

The Maryland Court of Appeals reviews the denial of George E. Blake's petition for post-conviction DNA testing. The court holds that the State conducted a reasonable search for the requested evidence under Maryland Criminal Procedure § 8-201 and affirms the circuit court's denial of the petition.

CASE DETAILS

COURT	Court of Appeals of Maryland
WRITING FOR THE COURT	Murphy, J.; Bell, C.J.; Harrell, J.; Battaglia, J.; Greene, J.; Adkins, J.; Barbera, J.
JURISDICTION	Maryland
DECIDED	March 22, 2011
DOCKET	No. 58, September Term, 2010
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the Circuit Court for Baltimore City's denial of Blake's petition for postconviction DNA testing.
STANDARD OF REVIEW	The clearly erroneous standard applies to the Circuit Court's finding that the State conducted a reasonable search under Maryland Criminal Procedure § 8-201.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	George E. Blake v. State of Maryland

TOPICS

- post-conviction relief
- criminal procedure
- appellate procedure
- standard of review
- evidence

PRACTICE AREAS

- criminal procedure
- post-conviction relief
- evidence
- appellate procedure

QUESTIONS PRESENTED

1. Whether the Circuit Court clearly erred in finding that the State conducted a reasonable search of the Evidence Control Unit and off-site storage facility for the requested DNA evidence.
2. Whether the search of the Baltimore City State's Attorney's Office was unreasonable and therefore required additional searches under Maryland Criminal Procedure § 8-201.

HOLDINGS

1. The Circuit Court did not clearly err in finding that the State conducted a reasonable search of the Evidence Control Unit and off-site storage facility under Maryland Criminal Procedure § 8-201.
2. The search of the State's Attorney's Office was not unreasonable, and the State was not required to conduct additional searches there.

KEY QUOTATIONS

“In light of the above quoted testimony of Sgt. Bazzle, however, we reject that argument, and hold that the Circuit Court was not erroneous—“clearly,” or otherwise—in finding that the search of ECU was “a reasonable search under [CP] § 8-201[.]”” (at 797)

“There is no merit whatsoever in the argument that the search of the State's Attorney's Office was unreasonable.” (at 798)

FACTUAL BACKGROUND

Blake was convicted in 1982 of first-degree rape and first-degree sexual offense arising from a 1981 sexual assault. The State's trial evidence included specimens, slides, swabs, clothing, bedding, and blood samples assigned Baltimore City Police Evidence Control Unit property numbers 858947 and 858944. After Blake sought postconviction DNA testing, the State conducted searches of the police Evidence Control Unit and off-site storage, the State's Attorney's Office, the crime laboratory, the hospital, and other potentially relevant locations, but did not locate the requested evidence; the police department's records also indicated that evidence had been damaged or destroyed in a 2003 flood.

PROCEDURAL HISTORY

Blake was convicted by a jury in 1982 of first-degree rape and first-degree sexual offense. After this Court reversed the summary dismissal of his first DNA-testing petition in *Blake I* and remanded for a proper search and hearing process, the Circuit Court conducted four hearings, received testimony and documentary evidence, and found that the State had satisfied its burden of conducting a reasonable search and proving that the requested evidence no longer existed. The Circuit Court denied the petition, and Blake timely appealed.

DISPOSITION

affirmed

CASES CITED

- *Blake v. State*, 395 Md. 213, 909 A.2d 1020 (2006)

- Arey v. State, 400 Md. 491, 929 A.2d 501 (2007)

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