

SUPREME COURT OF RHODE ISLAND

Gary Tassone v. State of Rhode Island

Tassone · No. 2021-314-M.P. (PM 00-4624) · Decided March 19, 2026

SUMMARY

The Rhode Island Supreme Court reviews Gary Tassone’s challenge to the denial of his application for postconviction relief. Tassone alleged ineffective assistance of counsel concerning witness presentation, police statements, blood evidence, a third-party-perpetrator defense, sand evidence, and investigation of lighting conditions. The Court rejects his claims and affirms the Superior Court judgment.

CASE DETAILS

COURT	Supreme Court of Rhode Island
WRITING FOR THE COURT	Associate Justice Maureen McKenna Goldberg; Chief Justice Suttell; Justice Goldberg; Justice Robinson; Justice Lynch Prata; Justice Long
JURISDICTION	Supreme Court of Rhode Island
DECIDED	March 19, 2026
DOCKET	2021-314-M.P. (PM 00-4624)
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petitioner sought review by certiorari of a Providence County Superior Court judgment denying his second application for postconviction relief alleging ineffective assistance of trial counsel.
STANDARD OF REVIEW	The Supreme Court will not disturb factual findings in a postconviction-relief proceeding absent clear error or a showing that the trial justice overlooked or misconceived material evidence. It reviews de novo mixed questions of law and fact involving alleged constitutional violations.
PRECEDENTIAL VALUE	published
PARTIES	Gary Tassone v. State of Rhode Island

TOPICS

- post-conviction relief
- ineffective assistance
- right to counsel
- sixth amendment
- criminal procedure

PRACTICE AREAS

criminal law

postconviction relief

constitutional criminal procedure

QUESTIONS PRESENTED

1. Whether Tassone satisfied the performance prong of Strickland by showing that trial counsel's challenged acts or omissions fell below an objective standard of reasonableness.
2. Whether Tassone satisfied the prejudice prong of Strickland by showing a reasonable probability that the result of the trial would have been different absent counsel's alleged errors.
3. Whether the alleged failures to investigate or present evidence concerning Linda Hazard, the confessions, blood evidence, sand evidence, a third-party perpetrator, and Route 195 lighting established ineffective assistance of counsel.

HOLDINGS

1. Tassone failed to prove that trial counsel's performance was objectively unreasonable because he did not reconstruct the circumstances of counsel's challenged conduct or establish counsel's perspective and reasons at the time of trial.
2. Tassone failed to show a reasonable probability that the outcome would have been different because the evidence of guilt, particularly his evolving confessions and their detailed correspondence with independent evidence, was overwhelming.
3. The specific alleged omissions did not establish prejudice: the record did not show that Hazard could provide materially exculpatory testimony; no basis supported a third-party-perpetrator defense; the proposed lighting investigation was speculative; the blood evidence was cumulative or nonprejudicial because Tassone stipulated that the semen was his; and the unseized substance near the vehicle tire could not have been tested.

KEY QUOTATIONS

“the burden was upon him “to reconstruct the circumstances of counsel’s challenged conduct” so that this Court could “evaluate the conduct from counsel’s perspective at the time.”” (19)

“In the absence of such evidence, we simply have no basis to evaluate the reasonableness of counsel’s challenged conduct.” (23)

“petitioner’s own unfolding statements revealing intimate details of the crime scene and its aftermath sealed his fate.” (24)

“For the reasons stated, the judgment of the Superior Court is affirmed.” (31)

FACTUAL BACKGROUND

Gary Tassone was convicted of murdering Kendra Hutter after giving police four increasingly inculpatory statements describing his presence with Hutter at Crescent Beach, striking her with a shovel, burying her, and discarding the shovel and a blanket. Police recovered the shovel and blanket near the location Tassone identified,

and other evidence linked him to the crime scene, including sand in his vehicle and matching cigarette and coffee-related items. In postconviction proceedings, Tassone claimed trial counsel was ineffective for failing to call or investigate witnesses, challenge statements and blood evidence, present a third-party-perpetrator defense, obtain sand or lighting experts, and pursue other investigative measures.

PROCEDURAL HISTORY

Tassone was convicted of first-degree murder in 1997 and sentenced to life imprisonment without the possibility of parole. The Rhode Island Supreme Court affirmed his direct appeal in *State v. Tassone*, 749 A.2d 1112 (R.I. 2000). His first postconviction-relief application was denied without an evidentiary hearing, but the Supreme Court vacated that judgment and remanded for a hearing in *Tassone v. State*, 42 A.3d 1277 (R.I. 2012). After the second postconviction-relief trial justice conducted an evidentiary hearing and denied relief on October 22, 2021, the Supreme Court granted certiorari and affirmed.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The papers were remanded to the Superior Court with the Supreme Court's decision endorsed thereon.

CASES CITED

- *State v. Tassone*, 749 A.2d 1112 (R.I. 2000)
- *Tassone v. State*, 42 A.3d 1277 (R.I. 2012)
- *Lefebvre v. State*, 313 A.3d 1156, 1162-65 (R.I. 2024)
- *Atryzek v. State*, 268 A.3d 37, 41 (R.I. 2022)
- *Rivera v. State*, 316 A.3d 683, 695-97 (R.I. 2024)
- *Santos v. State*, 91 A.3d 341, 344 (R.I. 2014)
- *Strickland v. Washington*, 466 U.S. 668, 687-91, 694 (1984)
- *Navarro v. State*, 187 A.3d 317, 325-26 (R.I. 2018)
- *Rice v. State*, 38 A.3d 9, 13, 17-18 & n.11 (R.I. 2012)
- *Wiggins v. Smith*, 539 U.S. 510, 522-23 (2003)
- *Roe v. Flores-Ortega*, 528 U.S. 470, 477 (2000)
- *Harrington v. Richter*, 562 U.S. 86, 105, 107 (2011)
- *Bobby v. Van Hook*, 558 U.S. 4, 11 (2009) (per curiam)
- *Yarborough v. Gentry*, 540 U.S. 1, 8 (2003)
- *State v. Barros*, 24 A.3d 1158, 1184 (R.I. 2011)
- *State v. Gazerro*, 420 A.2d 816, 825 (R.I. 1980)
- *State v. Dearmas*, 841 A.2d 659, 663, 668 (R.I. 2004)
- *State v. Feng*, 421 A.2d 1258, 1273 (R.I. 1980)

- *Burger v. Kemp*, 483 U.S. 776, 791 n.9 (1987)
- *United States v. Rosario-Diaz*, 202 F.3d 54, 69 (1st Cir. 2000)

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