

SUPREME COURT OF ARKANSAS

Watkins v. State

2010 Ark. 156, 362 S.W.3d 910 · Decided April 1, 2010

SUMMARY

The Arkansas Supreme Court dismissed Kyron Deandre Watkins's appeal from the denial of his Arkansas Rule of Criminal Procedure 37.1 petition. The court declined to reinvest jurisdiction in the trial court to address omitted postconviction claims because Watkins failed to timely obtain a ruling before perfecting his appeal. The court held that Watkins failed to establish prejudice under Strickland based on counsel's failure to object to the trial court imposing a firearm enhancement, and it deemed the remaining motions moot.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Arkansas
DECIDED	April 1, 2010
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appeal from the denial of a petition for postconviction relief under Arkansas Rule of Criminal Procedure 37.1, accompanied by motions to remand, stay the appeal, extend briefing time, and obtain duplication of a brief at public expense.
STANDARD OF REVIEW	The appellate court reviews the denial of postconviction relief for clear error under the Strickland v. Washington standard. A finding is clearly erroneous when, although supported by evidence, the appellate court is left with a definite and firm conviction that a mistake has been made.
PRECEDENTIAL VALUE	Published Arkansas Supreme Court per curiam opinion; precedential under Arkansas law.
PARTIES	Kyron Deandre Watkins v. State

TOPICS

- state post-conviction relief
- ineffective assistance
- appellate procedure
- due process
- criminal procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the Supreme Court should reinvest jurisdiction in the trial court to obtain written findings on Rule 37.1 claims omitted from the trial court's order.
2. Whether Watkins established ineffective assistance of counsel based on counsel's failure to object to the trial court's imposition of the firearm enhancement rather than submitting the enhancement sentence to the jury.
3. Whether the appeal should be dismissed because it was clear that Watkins could not prevail.

HOLDINGS

1. When a trial court enters written findings on at least one, but fewer than all, claims raised in a Rule 37.1 petition, the appellant must obtain a ruling on the omitted claims in the trial court to preserve them for appellate review. After the notice of appeal is filed and the appeal transcript is lodged, the trial court lacks jurisdiction to enter further rulings in the Rule 37.1 proceeding.
2. Declining to reinvest jurisdiction does not violate due process when the petitioner had an available and fundamentally fair procedure to obtain a ruling on omitted claims but failed to use that procedure before the trial court lost jurisdiction.
3. Watkins failed to establish ineffective assistance of counsel because he did not demonstrate prejudice under Strickland; conclusory speculation that the jury would have imposed a lesser enhancement sentence was insufficient.
4. An appeal from an order denying postconviction relief will be dismissed when it is clear that the appellant cannot prevail.

KEY QUOTATIONS

“As appellant did not plead facts that would establish prejudice, we do not address whether trial counsel’s failure to object to sentencing by the court on the firearm enhancement fell below a reasonable standard of professional judgment.” (Ineffective Assistance of Counsel)

“Motion for remand to trial court treated as petition to reinvest jurisdiction and denied; appeal dismissed; remaining motions moot.” (Disposition)

FACTUAL BACKGROUND

On August 29, 2007, Watkins and two codefendants were tried before a jury. Watkins was convicted of second-degree battery, kidnapping, and possession of a firearm by certain persons and received consecutive sentences, including a fifteen-year firearm enhancement imposed by the trial court. In his Rule 37.1 petition, Watkins alleged that trial counsel was ineffective for failing to object to the judge, rather than the jury, imposing the firearm-enhancement sentence.

PROCEDURAL HISTORY

Watkins was convicted by a jury of second-degree battery, kidnapping, and possession of a firearm by certain persons, and received consecutive sentences including a fifteen-year firearm enhancement imposed by the trial court. The Arkansas Court of Appeals affirmed. Watkins then filed a Rule 37.1 petition alleging eight grounds for relief. After a hearing, the trial court denied relief but entered written findings addressing only one issue. Watkins appealed and sought remand for findings on the omitted issues. The Supreme Court of Arkansas declined to reinvest jurisdiction in the trial court, held that the preserved ineffective-assistance claim could not succeed, dismissed the appeal, and declared the remaining motions moot.

DISPOSITION

dismissed

CASES CITED

- Pierce v. State, 2009 Ark. 606
- Grissom v. State, 2009 Ark. 557
- Pardue v. State, 338 Ark. 606, 999 S.W.2d 198 (1999) (per curiam)
- Seaton v. State, 324 Ark. 236, 920 S.W.2d 13 (1996) (per curiam)
- Scott v. State, 351 Ark. 619, 96 S.W.3d 732 (2003) (per curiam)
- Beshears v. State, 329 Ark. 469, 947 S.W.2d 789 (1997) (per curiam)
- Howard v. State, 367 Ark. 18, 238 S.W.3d 24 (2006)
- Beshears v. State, 340 Ark. 70, 8 S.W.3d 32 (2000)
- Viveros v. State, 2009 Ark. 548
- Sherman v. State, 326 Ark. 153, 931 S.W.2d 417 (1996)
- Fisher v. State, 364 Ark. 216, 217 S.W.3d 117 (2005)
- Brown v. Post-Prison Transfer Bd., 343 Ark. 118, 32 S.W.3d 754 (2000) (per curiam)
- Gibson v. State, 298 Ark. 43, 764 S.W.2d 617 (1989)
- Engram v. State, 360 Ark. 140, 200 S.W.3d 367 (2004)
- Porter v. State, 339 Ark. 15, 2 S.W.3d 73 (1999)
- Ark. Dep't of Corr. v. Bailey, 368 Ark. 518, 247 S.W.3d 851 (2007)
- Maulding v. State, 299 Ark. 570, 776 S.W.2d 339 (1989) (per curiam)
- Robinson v. State, 295 Ark. 693, 751 S.W.2d 335 (1988) (per curiam)
- Newman v. State, 363 Ark. 199, 211 S.W.3d 543 (2005) (Glaze, J., concurring)
- Raines v. State, 336 Ark. 49, 983 S.W.2d 424 (1999) (per curiam)
- Jordan v. State, 323 Ark. 628, 917 S.W.2d 164 (1996)
- Small v. State, 371 Ark. 244, 264 S.W.3d 512 (2008) (per curiam)
- State v. Barrett, 371 Ark. 91, 263 S.W.3d 542 (2007)
- Walker v. State, 367 Ark. 523, 241 S.W.3d 734 (2006) (per curiam)
- Sparkman v. State, 373 Ark. 45, 281 S.W.3d 277 (2008)

- State v. Brown, 2009 Ark. 202, 307 S.W.3d 587
- Huls v. State, 301 Ark. 572, 785 S.W.2d 467 (1990) (per curiam)
- Nelson v. State, 344 Ark. 407, 39 S.W.3d 791 (2001) (per curiam)
- Long v. State, 294 Ark. 362, 742 S.W.2d 942 (1988)
- Weatherford v. State, 352 Ark. 324, 101 S.W.3d 227 (2003)
- Pettit v. State, 296 Ark. 423, 758 S.W.2d 1 (1988)
- Cotton v. State, 256 Ark. 527, 508 S.W.2d 738 (1974)
- Redding v. State, 254 Ark. 317, 493 S.W.2d 116 (1973)
- Johnson v. State, 249 Ark. 208, 458 S.W.2d 409 (1970)
- Watkins v. State, 2009 Ark. App. 124, 302 S.W.3d 635