

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Stoltie v. Tilton

Stoltie · No. 07-56079 · Decided August 18, 2008

SUMMARY

The United States Court of Appeals for the Ninth Circuit affirmed the district court's decision in a habeas corpus case involving a confusing jury instruction on reasonable doubt. The court held that the state appellate court unreasonably applied clearly established Supreme Court law and adopted the district court's opinion except for Section III.C.

OPINION

PER CURIAM.

FOR PUBLICATION UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT
BRIAN JOSEPH STOLTIE, Petitioner-Appellee, No. 07-56079 v. D.C. No. CV-06-00289-
DDP JAMES E. TILTON, Secretary of the Department of Corrections, OPINION Respondent-
Appellant. Appeal from the United States District Court for the Central District of California
Dean D. Pregerson, District Judge, Presiding Argued and Submitted August 6, 2008—Pasadena,
California Filed August 19, 2008 Before: Stephen Reinhardt, Circuit Judge, Roger J. Miner,*
Senior Circuit Judge and Marsha S. Berzon, Circuit Judge.

Per Curiam Opinion *The Honorable Roger J. Miner, Senior United States Circuit Judge for the
Second Circuit, sitting by designation. 11025 11026 STOLTIE v. TILTON COUNSEL Jonathan
Libby, Deputy Federal Public Defender, Los Ange- les, California, for the petitioner-appellee.
Heather F. Crawford, Deputy Attorney General for the State of California, San Diego, California,
for the respondent- appellant.

OPINION PER CURIAM: We AFFIRM the district court's decision, and adopt its opinion in
Stoltie v. California, reported at 501 F. Supp. 2d 1252 (C.D. Cal. 2007), except for Section III.C.,
as to which we express no view.

As the state acknowledged at oral argu- ment, even the state appellate court misunderstood the
con- fused and confusing explanation of reasonable doubt provided to the jury by the trial judge.
This error led it to apply in an unreasonable manner clearly established Supreme Court law
regarding reasonable doubt. Sullivan v. Louisiana, 508 U.S. 275 (1993); Cage v. Louisiana, 498
U.S. 39 (1990), overruled on other grounds by Estelle v. McGuire, 502 U.S. 62 (1991); In re
Winship, 397 U.S. 358 (1970).

AFFIRMED. PRINTED FOR ADMINISTRATIVE OFFICE—U.S. COURTS The summary, which does not constitute a part of the opinion of the court, is copyrighted

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