

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Darren Butler v. Marvin Plumley, Warden

No. 12-1263 (W. Va. Oct. 4, 2013) · No. No. 12-1263 · Decided October 4, 2013

SUMMARY

The West Virginia Supreme Court of Appeals affirmed the denial, without an evidentiary hearing, of Darren Butler’s petition for habeas corpus relief. The court rejected claims concerning ineffective assistance of counsel and the consequences of child neglect convictions, disproportionality of his sentences, and alleged unresolved competency issues. The court held that the registry and potential parental-rights consequences were adequately addressed, sentencing proportionality had been previously adjudicated, and the record did not support plain-error relief on competency allegations.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Per Curiam; Chief Justice Brent D. Benjamin; Justice Robin Jean Davis; Justice Margaret L. Workman; Justice Menis E. Ketchum; Justice Allen H. Loughry II
JURISDICTION	West Virginia
DECIDED	October 4, 2013
DOCKET	No. 12-1263
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petitioner appealed the Circuit Court of Berkeley County's denial, without an evidentiary hearing, of his petition for a writ of habeas corpus.
STANDARD OF REVIEW	The final order and ultimate disposition in a habeas proceeding are reviewed for abuse of discretion, underlying factual findings are reviewed for clear error, and questions of law are reviewed de novo. A habeas petition may also be denied without a hearing or appointment of counsel when the petition and supporting materials show that the petitioner is entitled to no relief.
PRECEDENTIAL VALUE	Memorandum decision under West Virginia Rule of Appellate Procedure 21; the opinion states that memorandum decisions constitute decisions on the merits.

PARTIES

Darren Butler v. Marvin Plumley, Warden, Huttonsville Correctional Center

TOPICS

state post-conviction relief

habeas corpus

ineffective assistance

plea bargaining

sentencing

PRACTICE AREAS

Post-conviction habeas corpus

Criminal procedure

Ineffective assistance of counsel

Plea agreements

Sentencing

QUESTIONS PRESENTED

1. Whether trial counsel rendered ineffective assistance by failing to advise Butler adequately about the child abuse and neglect registry and possible termination of parental rights.
2. Whether Butler's guilty and no-contest pleas were involuntary because the written plea agreement did not mention the child abuse and neglect registry or possible parental-rights consequences.
3. Whether Butler's sentence claims were barred because the proportionality and severity of his sentences had already been finally adjudicated on direct appeal.
4. Whether the absence of a competency evaluation constituted plain error warranting habeas relief.
5. Whether the circuit court properly denied habeas relief without an evidentiary hearing.

HOLDINGS

1. Trial counsel did not render ineffective assistance because Butler was adequately advised of the child abuse and neglect registry and the possible termination of parental rights before the pleas were accepted.
2. The pleas were not involuntary merely because the written plea agreement did not mention the child abuse and neglect registry or possible termination of parental rights, because those consequences were expressly discussed on the record before the pleas were entered.
3. The circuit court properly treated Butler's claims concerning the severity and proportionality of his sentences as previously and finally adjudicated on direct appeal.
4. The record was insufficient to trigger the plain-error doctrine based on Butler's allegation that no follow-up competency evaluation was conducted.
5. The circuit court did not abuse its discretion by denying the habeas petition without an evidentiary hearing.

KEY QUOTATIONS

"We review the final order and the ultimate disposition under an abuse of discretion standard; the underlying factual findings under a clearly erroneous standard; and questions of law are subject to a de novo review."

(3)

“To trigger application of the ‘plain error’ doctrine, there must be (1) an error; (2) that is plain; (3) that affects substantial rights; and (4) seriously affects the fairness, integrity, or public reputation of the judicial proceedings.” (5)

FACTUAL BACKGROUND

Butler entered a binding plea agreement covering arson, child-neglect, and embezzlement charges. During the plea hearing, the court and counsel discussed that the child-neglect pleas could result in a finding that Butler was an abusing parent, registration on the child abuse and neglect registry, and possible parental-rights proceedings. Butler confirmed that he understood the consequences and wished to plead guilty and no contest. He later challenged the pleas and sentences in habeas proceedings, also asserting that a prior attorney's request for a psychological evaluation raised an unresolved competency issue.

PROCEDURAL HISTORY

Butler pleaded guilty to first-degree arson and five counts of child neglect creating a substantial risk of bodily injury, and pleaded no contest to embezzlement, pursuant to a binding plea agreement. After sentencing, he directly appealed and the Supreme Court of Appeals of West Virginia affirmed. Butler then filed a habeas petition alleging ineffective assistance, involuntary pleas, excessive or disproportionate sentences, and competency-related error. The circuit court denied relief without a hearing, and the Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Mathena v. Haines, 219 W. Va. 417, 633 S.E.2d 771 (2006)
- Perdue v. Coiner, 156 W. Va. 467, 194 S.E.2d 657 (1973)
- Losh v. McKenzie, 166 W. Va. 762, 277 S.E.2d 606 (1981)
- State v. Butler, No. 101512 (W. Va. Supreme Court, Apr. 18, 2011) (memorandum decision)
- State ex rel. Hatcher v. McBride, 221 W. Va. 760, 656 S.E.2d 789 (2007)
- State v. Miller, 194 W. Va. 3, 459 S.E.2d 114 (1995)