

SUPREME COURT OF FLORIDA

McClain v. Atwater

110 So. 3d 892 (Fla. 2013) · Decided March 21, 2013

SUMMARY

The Florida Supreme Court held that extraordinary or unusual circumstances justified exceeding the statutory cap on investigative fees in a capital postconviction proceeding. The court concluded that the lower court improperly focused on whether the case was an ordinary capital case instead of applying an as-applied analysis addressing the defendant’s right to effective representation and whether the statutory cap would be confiscatory. The court reversed and remanded with instructions to grant reimbursement for the additional investigative fees.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Pariente; Lewis; Labarga; Perry; Quince; Polston; Canady
JURISDICTION	Florida
DECIDED	March 21, 2013
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	McClain sought review of the denial of his motion for reimbursement of investigative fees incurred while representing a capital postconviction defendant. The Supreme Court of Florida reviewed the trial court's order and reversed.
STANDARD OF REVIEW	De novo review of a legal issue decided on written evidence and settled facts.
PRECEDENTIAL VALUE	Published Florida Supreme Court opinion; binding precedent in Florida.
PARTIES	Martin J. McClain v. Atwater, Florida Department of Financial Services

TOPICS

- post-conviction relief
- criminal procedure
- remedies
- statutory interpretation

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the capital postconviction proceeding presented extraordinary or unusual circumstances permitting reimbursement of investigative fees above the statutory cap in section 27.711, Florida Statutes.
2. Whether the trial court improperly denied excess investigative fees by characterizing the case as an ordinary capital postconviction case instead of applying an as-applied analysis focused on the defendant's right to effective representation and whether the statutory cap would be confiscatory.

HOLDINGS

1. A trial court may authorize payment of investigative fees above the statutory cap when extraordinary or unusual circumstances exist and the excess compensation is reasonable and necessary to provide effective representation.
2. The trial court erred by summarily finding the case ordinary and failing to evaluate the particular investigative work, its necessity, and whether enforcing the statutory cap would be confiscatory.

KEY QUOTATIONS

“The Court stressed that at the heart of the matter was an indigent defendant’s right to competent and effective representation — a right that could be in jeopardy if counsel could not be reasonably compensated for the legal services he or she was required to provide under the statutory fee limit.” (897)

“Instead, the proper focus of the court’s review should be “on the ‘defendant’s right to effective representation rather than the attorney’s right to fair compensation,’ ” reviewing what was reasonable in light of an attorney’s professional obligation to provide services to the indigent defendant.” (898)

“Then, the court must perform an “as applied” analysis to determine whether the statutory cap would be confiscatory of the attorney’s time, energy, talent, and resources under the circumstances of the particular case.” (898)

“In light of the attorney’s professional obligation to his indigent death-sentenced client and the need to engage in extended investigation to uncover witnesses that could cast doubt on the defendant’s guilt, we conclude that the circumstances of this case were extraordinary or unusual circumstances that required defense counsel to exceed the statutory cap.” (900)

FACTUAL BACKGROUND

McClain represented Thomas James Moore, a death-sentenced defendant, in successive capital postconviction proceedings involving newly discovered evidence that Moore's codefendants had made statements suggesting they were responsible for the murder. Investigator Daniel Ashton conducted extensive investigation, located multiple witnesses, reinterviewed them before the evidentiary hearing, and testified about his investigation. The

investigative expenses exceeded the statutory \$15,000 cap by \$1,844, and neither the Department of Financial Services nor the State disputed that the expenses were necessary or reasonable.

PROCEDURAL HISTORY

Martin McClain was appointed registry counsel for Thomas James Moore in 2003 and later contracted with the Florida Department of Financial Services. After an investigator conducted extensive investigation supporting a successive postconviction motion and evidentiary hearing, McClain sought reimbursement for investigative fees exceeding the statutory cap by \$1,844. The chief judge of the Fourth Judicial Circuit denied reimbursement, finding that the case was an ordinary capital postconviction case. The Supreme Court of Florida reversed and remanded with instructions to grant the motion.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the trial court's order and remand with instructions to grant McClain's motion for reimbursement in accordance with the opinion.

CASES CITED

- Moore v. State, 701 So. 2d 545, 547 (Fla. 1997)
- Moore v. State, 820 So. 2d 199, 202 (Fla. 2002)
- Makemson v. Martin County, 491 So. 2d 1109, 1114-15 (Fla. 1986)
- Olive v. Maas, 811 So. 2d 644, 653-54 (Fla. 2002)
- Maas v. Olive, 992 So. 2d 196, 204 (Fla. 2008)
- White v. Board of County Commissioners of Pinellas County, 537 So. 2d 1376, 1378, 1380 (Fla. 1989)
- Bosem v. Musa Holdings, Inc., 46 So. 3d 42, 44 (Fla. 2010)
- Freeman v. Florida Department of Financial Services, 921 So. 2d 598, 600 (Fla. 2006)
- Fla. Dep't of Fin. Servs. v. Freeman, 921 So. 2d 598, 598 (Fla. 2006)
- Ring v. Arizona, 536 U.S. 584 (2002)

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