

MISSISSIPPI SUPREME COURT

Jordan v. State

213 So. 3d 40 (Miss. 2016) · Decided December 8, 2016

SUMMARY

The Mississippi Supreme Court denied Kelvin Jordan’s successive petition for post-conviction relief challenging his capital-murder convictions and death sentences. The court held that his claims concerning trial counsel’s effectiveness, sentence proportionality, and evidentiary rulings were barred as untimely, successive, or barred by res judicata. The court also held that his current counsel could not assert a claim alleging her own ineffective assistance in Jordan’s prior post-conviction proceedings.

CASE DETAILS

COURT	Mississippi Supreme Court
WRITING FOR THE COURT	Coleman, Justice; Waller, Chief Justice; Dickinson, Presiding Justice; Lamar, Justice; Kitchens, Justice; Maxwell, Justice; Beam, Justice; King, Justice; Randolph, Presiding Justice
JURISDICTION	Mississippi
DECIDED	December 8, 2016
DISPOSITION	writ_denied
PROCEDURAL POSTURE	Jordan filed a successive petition for post-conviction relief in the Mississippi Supreme Court following his convictions and death sentences for two counts of capital murder and the denial of his first post-conviction petition.
STANDARD OF REVIEW	The court applied Mississippi's statutory and procedural bars governing post-conviction petitions, including the one-year time bar, the bar on successive petitions, and res judicata.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Kelvin Jordan v. State

TOPICS

- state post-conviction relief
- successive petitions
- post-conviction relief
- ineffective assistance
- sentencing

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Jordan's renewed ineffective-assistance claims against trial counsel were barred as successive, untimely, and res judicata because the same claim had been raised and rejected in his first post-conviction proceeding.
2. Whether Jordan's current post-conviction counsel could assert a claim that the same attorney had been constitutionally ineffective during Jordan's earlier post-conviction proceedings.
3. Whether Jordan's renewed challenge to the proportionality of his death sentences was barred by res judicata and applicable post-conviction procedural bars.
4. Whether Jordan's claims concerning evidentiary rulings at trial were barred because they had previously been raised and rejected and because they were untimely or successive.

HOLDINGS

1. Jordan's renewed ineffective-assistance claim against trial counsel was barred because the same issue had been raised and rejected in his first post-conviction proceeding and any claim against counsel was also untimely.
2. Jordan's current counsel could not proceed with a claim alleging that she herself had rendered ineffective assistance during Jordan's earlier post-conviction proceedings.
3. Jordan's renewed challenge to the proportionality of his death sentences was barred by res judicata.
4. Jordan's claims concerning evidentiary rulings at trial remained procedurally barred because they had been raised and rejected in the first post-conviction proceeding and were also subject to the time and successive-petition bars.

KEY QUOTATIONS

"The claim that trial counsel were ineffective (the first indirect claim) is barred by res judicata." (43)

"[A] self-ineffectiveness claim is absolutely inappropriate and must not be permitted." (43)

FACTUAL BACKGROUND

Jordan and his cousin, Frontrell Edwards, planned to rob someone and discussed killing the victim to prevent identification. They obtained a ride from Tony Roberts, shot and killed Roberts, and then killed Roberts's two-year-old son, Codera Bradley, before taking the vehicle and other property and burning the car. Jordan made incriminating statements, admitted firing at Roberts, helped police locate the bodies, and helped recover the guns. The jury found the capital-murder aggravating circumstances and imposed death sentences for both killings.

PROCEDURAL HISTORY

A jury convicted Jordan of two counts of capital murder and imposed two death sentences in 1996. The Mississippi Supreme Court affirmed on direct appeal in *Jordan I* and denied Jordan's first post-conviction

petition in Jordan II. Jordan filed the present successive petition in July 2015, asserting ineffective assistance of trial and post-conviction counsel, disproportionality of his death sentence, and errors in evidentiary rulings; the court denied leave to proceed.

DISPOSITION

writ_denied

CASES CITED

- Jordan v. State, 728 So. 2d 1088 (Miss. 1999)
- Jordan v. State, 918 So. 2d 636 (Miss. 2005)
- Havard v. State, 86 So. 3d 896, 899 (Miss. 2012)
- Rowland v. State, 42 So. 3d 503, 507 (Miss. 2010)
- Howard v. State, 945 So. 2d 326, 353 (Miss. 2006)
- Jackson v. State, 860 So. 2d 653, 660-61 (Miss. 2003)
- Lockett v. State, 614 So. 2d 888, 893 (Miss. 1992)
- Grayson v. State, 118 So. 3d 118, 141 (Miss. 2013)
- Brawner v. State, 166 So. 3d 22, 23 (Miss. 2012)
- Archer v. State, 986 So. 2d 951, 956-57 (Miss. 2008)
- Bishop v. State, 882 So. 2d 135, 153 (Miss. 2004)