

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Thomas Shrader v. State of West Virginia and McDowell County Circuit Court

No. 12-0982 (W. Va. May 17, 2013) · No. 12-0982 · Decided May 17, 2013

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed the denial of Thomas Shrader’s petition for habeas corpus or, alternatively, coram nobis. The court held that res judicata barred the claims because Shrader had prior opportunities to challenge his convictions and found no error in the circuit court’s decision.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	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	May 17, 2013
DOCKET	12-0982
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petitioner appealed the McDowell County Circuit Court's denial of his petition for a writ of habeas corpus or, alternatively, coram nobis.
STANDARD OF REVIEW	The Court considered the applicable standard of review, the parties' briefs, and the record, and found no substantial question of law or prejudicial error.
PRECEDENTIAL VALUE	Memorandum decision issued under West Virginia Rule of Appellate Procedure 21; the opinion states that no substantial question of law or prejudicial error was presented.
PARTIES	Thomas Shrader v. State of West Virginia, McDowell County Circuit Court

TOPICS

state post-conviction relief

successive petitions

habeas corpus

appellate procedure

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PRACTICE AREAS

post-conviction relief

criminal procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether res judicata and prior habeas proceedings barred Shrader's successive post-conviction petition.
2. Whether the alleged changes in indictment law qualified for the exception to res judicata for favorable, retroactively applicable changes in law.
3. Whether the indictments for murder and unlawful wounding were legally defective.
4. Whether Shrader was entitled to relief through coram nobis or on his ineffective-assistance claim.

HOLDINGS

1. Res judicata barred Shrader's third post-conviction petition because he had prior habeas proceedings and was required to raise all matters known, or discoverable with reasonable diligence, in those proceedings.
2. Shrader did not establish that any favorable change in law applied retroactively so as to avoid res judicata.
3. The indictments were not shown to be defective: a West Virginia murder indictment need not specify first- or second-degree murder, and the unlawful-wounding indictment did not transpose the names as Shrader claimed.
4. The Court affirmed denial of relief through coram nobis, without recognizing a basis for granting that extraordinary remedy on Shrader's claims.

KEY QUOTATIONS

"Therefore, after careful consideration, this Court concludes that the doctrine of res judicata bars the instant petition and that the circuit court did not err in denying it." (at 3)

"For the foregoing reasons, we find no error in the decision of the Circuit Court of McDowell County and affirm its order, entered May 11, 2012, denying the petition for a writ of habeas corpus or, in the alternative, coram nobis." (at 4)

FACTUAL BACKGROUND

In 1976, Shrader pleaded guilty to two murder counts and to unlawful wounding, receiving two concurrent life sentences with mercy and a concurrent twelve-month jail sentence. He received habeas hearings in 1976 and 1984, and he later completed his West Virginia parole in 1999. In 2011, while incarcerated in federal prison on a separate firearm conviction, he filed another state petition challenging his pleas, indictments, changes in the law, and trial counsel's effectiveness.

PROCEDURAL HISTORY

Shrader pleaded guilty in 1976 to two counts of first-degree murder and one reduced count of unlawful wounding and received concurrent sentences. His earlier habeas proceedings in 1976 and 1984 were unsuccessful, and a later motion for sentence reduction was also denied. After filing a third post-conviction

petition in 2011, the circuit court denied relief, concluding that the petition was moot, that the claims had been finally adjudicated or waived, and that the substantive claims lacked merit. The Supreme Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- State ex rel. Richey v. Hill, 216 W. Va. 155, 603 S.E.2d 177 (2004)
- United States v. Mayer, 235 U.S. 55 (1914)
- Losh v. McKenzie, 166 W. Va. 762, 277 S.E.2d 606 (1981)
- State ex rel. Combs v. Boles, 151 W. Va. 194, 151 S.E.2d 115 (1966)
- State v. Schnelle, 24 W. Va. 767 (1884)

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