

SUPREME COURT OF FLORIDA

Gilliam v. State

817 So. 2d 768 (Fla. 2002) · No. SC00-1438; SC95370 · Decided February 7, 2002

SUMMARY

The Supreme Court of Florida reviewed Burley Gilliam's appeal from the denial of his motion for postconviction relief under Florida Rule of Criminal Procedure 3.850 and his petition for a writ of habeas corpus. The court rejected or procedurally barred his claims, including ineffective-assistance claims concerning prior-conviction evidence, intoxication, mental-health experts, and penalty-phase mitigation. It affirmed the denial of postconviction relief and denied the habeas petition.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Per Curiam; Wells, C.J.; Shaw, J.; Harding, J.; Lewis, J.; Quince, J.; Pariente, J.; Anstead, J.
JURISDICTION	Florida
DECIDED	February 7, 2002
DOCKET	SC00-1438; SC95370
DISPOSITION	affirmed
PROCEDURAL POSTURE	Gilliam appealed the circuit court's denial of his motion for postconviction relief under Florida Rule of Criminal Procedure 3.850 and petitioned the Supreme Court of Florida for a writ of habeas corpus.
STANDARD OF REVIEW	Ineffective-assistance claims present mixed questions of fact and law; the court defers to the trial court's factual findings but independently reviews the deficiency and prejudice prongs. Postconviction claims conclusively refuted by the record may be summarily denied.
PRECEDENTIAL VALUE	Published Florida Supreme Court opinion; precedential.
PARTIES	Burley Gilliam v. State of Florida, Michael W. Moore, etc., et al.

TOPICS

- state post-conviction relief
- habeas corpus
- ineffective assistance
- sentencing
- appellate procedure

PRACTICE AREAS

capital postconviction relief

criminal procedure

habeas corpus

ineffective assistance of counsel

appellate procedure

QUESTIONS PRESENTED

1. Whether trial counsel was ineffective for revealing Gilliam's prior rape conviction to the jury based on an inaccurate understanding of the conviction's circumstances.
2. Whether counsel was ineffective for failing to investigate and present voluntary-intoxication evidence, competent mental-health evidence, additional mitigating evidence, or an appropriate penalty-phase closing argument.
3. Whether the State violated Brady by suppressing evidence that the victim was a prostitute.
4. Whether counsel was ineffective for failing to request a specific jury instruction concerning epileptic seizures and specific intent.
5. Whether Detective Poe's testimony concerning the prior rape conviction constituted a basis for ineffective assistance or reversible hearsay error.
6. Whether the remaining guilt-phase and penalty-phase claims were procedurally barred, conclusively refuted by the record, or without merit.
7. Whether Gilliam was entitled to habeas relief based on the claimed HAC aggravator error, ineffective assistance of appellate counsel, or the exclusion of evidence concerning the victim's alleged prostitution.

HOLDINGS

1. Counsel was not ineffective for introducing Gilliam's prior rape conviction because the record supported the conclusion that counsel made a strategic decision to disclose it, and Gilliam failed to establish prejudice.
2. Counsel was not ineffective for failing to investigate or present voluntary-intoxication evidence because the defense presented evidence of Gilliam's alcohol and drug use and obtained a voluntary-intoxication instruction.
3. Gilliam failed to establish ineffective assistance based on the alleged failure to obtain a competent mental-health expert or provide the expert with necessary materials.
4. Gilliam was not entitled to relief on the alleged Brady claim because he failed to establish suppression and prejudice, and the alleged evidence was irrelevant to his insanity defense and inadmissible under Florida's rape-shield law.
5. Counsel was not ineffective for failing to request a separate instruction that epileptic seizures could negate specific intent because the insanity instruction accommodated Gilliam's asserted epileptic-seizure defense.
6. Gilliam was not entitled to relief based on counsel's failure to object to Detective Poe's testimony because counsel obtained limits on the testimony and objected when the State elicited hearsay.

7. The majority held that counsel's decision to present mitigating evidence to the sentencing judge rather than the penalty-phase jury did not constitute deficient performance or prejudice under Strickland.
8. Counsel's penalty-phase closing argument was not constitutionally deficient even though it did not specifically address every aggravating circumstance.
9. Gilliam was not entitled to relief on a cumulative-error theory because his individual claims of error lacked merit.
10. Gilliam was not entitled to habeas relief because the claims were procedurally barred or meritless; appellate counsel was not ineffective for omitting claims that were procedurally barred, meritless, or unsupported by the record.

KEY QUOTATIONS

“Ineffective assistance of counsel claims are mixed questions of fact and law and while this Court will give deference to the trial court's factual findings, it performs an independent review of both the deficiency and prejudice prongs.” (at 780)

“Gilliam has failed to demonstrate that he suffered prejudice or that counsel's performance was deficient under Strickland v. Washington.” (at 781)

FACTUAL BACKGROUND

Gilliam was convicted of murdering and sexually battering Joyce Marlowe, whose body was found after she left a topless bar with Gilliam. He defended on the theory that he committed the offenses during an epileptic seizure and was legally insane, relying on family testimony and expert testimony. In postconviction proceedings, he alleged numerous instances of ineffective assistance, Brady violations, evidentiary error, and constitutional defects, including counsel's decision to present substantial mitigating evidence to the sentencing judge rather than the penalty-phase jury.

PROCEDURAL HISTORY

Gilliam was convicted of first-degree murder and sexual battery in 1988 after a retrial following reversal of his original conviction. He filed an amended Rule 3.850 motion raising twenty-three claims. The circuit court summarily denied all claims except ineffective assistance during the penalty phase, which it denied after an evidentiary hearing. Gilliam separately filed a habeas petition raising four claims. The Supreme Court of Florida affirmed the denial of postconviction relief and denied habeas relief.

DISPOSITION

affirmed

CASES CITED

- Gilliam v. State, 582 So. 2d 610 (Fla. 1991)
- Gilliam v. State, 514 So. 2d 1098 (Fla. 1987)
- Strickland v. Washington, 466 U.S. 668 (1984)

- Hildwin v. Dugger, 654 So. 2d 107, 109 (Fla. 1995)
- Valle v. State, 705 So. 2d 1331, 1337 n.6 (Fla. 1997)
- Cherry v. State, 659 So. 2d 1069, 1072 (Fla. 1995)
- Medina v. State, 573 So. 2d 293, 295 (Fla. 1990)
- Downs v. State, 740 So. 2d 506, 516 (Fla. 1999)
- Rutherford v. State, 727 So. 2d 216, 224-225 (Fla. 1998)
- Valle v. State, 778 So. 2d 960, 966 (Fla. 2001)
- Bryan v. State, 748 So. 2d 1003, 1008 (Fla. 1999)
- Rutherford v. Moore, 774 So. 2d 637, 643 (Fla. 2000)
- Johnson v. Singletary, 695 So. 2d 263, 266-267 (Fla. 1996)
- Roberts v. State, 510 So. 2d 885, 892 (Fla. 1987)
- Lewis v. State, 591 So. 2d 922 (Fla. 1991)
- Gaskin v. State, 737 So. 2d 509 (Fla. 1999)
- Clark v. State, 690 So. 2d 1280 (Fla. 1997)
- Johnson v. Singletary, 695 So. 2d 263, 266-267 (Fla. 1996)

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