

SUPREME COURT OF FLORIDA

Williams v. State

889 So. 2d 804 (Fla. 2004) · No. SC03-1660 · Decided December 9, 2004

SUMMARY

The Supreme Court of Florida held that the Anders procedures apply to appeals from involuntary civil commitment orders under Florida's Jimmy Ryce Act. The court reasoned that such commitments may result in an indeterminate or potentially indefinite confinement, constituting a substantial curtailment of liberty interests. The court answered the certified question affirmatively and approved the Fifth District Court of Appeal's decision.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Lewis, J.; Pariente, C.J.; Wells, J.; Anstead, J.; Quince, J.; Cantero, J.; Bell, J.
JURISDICTION	Florida
DECIDED	December 9, 2004
DOCKET	SC03-1660
DISPOSITION	approved
PROCEDURAL POSTURE	Review of a decision of the Fifth District Court of Appeal on a certified question of great public importance concerning whether Anders procedures apply to appeals from Jimmy Ryce Act commitment orders.
STANDARD OF REVIEW	De novo review of the certified legal question
PRECEDENTIAL VALUE	Published Florida Supreme Court opinion; precedential
PARTIES	Anthony Williams v. State of Florida

TOPICS

- appellate procedure
- due process
- procedural due process
- constitutional law
- health law

PRACTICE AREAS

appellate procedure

constitutional law

civil commitment

mental health law

sexually violent predator commitment

QUESTIONS PRESENTED

1. Whether the Anders procedures for appointed counsel who concludes that a criminal appeal is wholly frivolous apply to appeals from involuntary civil commitment orders entered under Florida's Jimmy Ryce Act.

HOLDINGS

1. The Anders procedures must be followed in appeals from involuntary civil commitments of sexually violent predators under the Jimmy Ryce Act.

KEY QUOTATIONS

"Given our decision in Pullen and the reasoning contained therein, we conclude that the protections afforded by the Anders procedures must be extended to appeals from involuntary civil commitments of sexually violent predators under the Jimmy Ryce Act." (806)

"Clearly, an involuntary civil commitment resulting in an individual's confinement for an indeterminate, and potentially indefinite, period of time presents the sort of "massive curtailment of liberty" interests with which we were concerned in Pullen." (806)

FACTUAL BACKGROUND

Williams was subject to an involuntary civil commitment as a sexually violent predator under Florida's Jimmy Ryce Act. The Act requires confinement in a secure facility for control, care, and treatment until the person's mental abnormality or personality disorder changes sufficiently to make release safe. The statute permits confinement for an indeterminate and potentially indefinite period, with periodic examinations concerning possible safe release.

PROCEDURAL HISTORY

The Fifth District Court of Appeal certified whether the Anders procedures applicable in criminal cases must also be followed in appeals from Jimmy Ryce Act commitment orders. The Supreme Court of Florida accepted review, answered the certified question in the affirmative, and approved the district court's decision. The court declined to address another claim because it was outside the certified question and was not the basis for discretionary review.

DISPOSITION

approved

CASES CITED

- Anders v. California, 386 U.S. 738, 87 S. Ct. 1396, 18 L. Ed. 2d 493 (1967)

- Williams v. State, 852 So. 2d 433 (Fla. 5th DCA 2003)
- In re Anders Briefs, 581 So. 2d 149 (Fla. 1991)
- Pullen v. State, 802 So. 2d 1113 (Fla. 2001)
- In re Beverly, 342 So. 2d 481 (Fla. 1977)

OPINION

PER CURIAM.

889 So. 2d 804 (2004) Anthony WILLIAMS, Appellant, v. STATE of Florida, Appellee. No. SC03-1660. Supreme Court of Florida. December 9, 2004. Beverly A. Pohl and Bruce S. Rogow of Bruce S. Rogow, P.A., Fort Lauderdale, FL, for Petitioner. Charles J. Crist, Jr., Attorney General and Thomas H. Duffy, Assistant Attorney General, Tallahassee, FL; Douglas T. Squire and Kellie A. Nielan, Assistant Attorneys General, Daytona Beach, FL, for Respondent.

LEWIS, J. We have for review a decision of a district court of appeal on the following question, which the district court certified to be of great public importance: ARE THE ANDERS PROCEDURES APPLICABLE TO CRIMINAL CASES TO BE FOLLOWED IN CASES INVOLVING APPEALS FROM JIMMY RYCE ACT COMMITMENT ORDERS? Williams v. State, 852 So. 2d 433, 435-36 (Fla. 5th DCA 2003).

We have jurisdiction. See art. V, § 3(b)(4), Fla. Const. Before addressing the certified question in this case, we find it appropriate to briefly review the doctrine announced by the United States Supreme Court in Anders v. California, 386 U.S. 738, 87 S. Ct. 1396, 18 L. Ed. 2d 493 (1967).

In Anders, the High Court set forth procedures to be used by appointed counsel in criminal cases when counsel cannot in good faith ascertain any meritorious issue to present on appeal. See *id.* at 744, 87 S. Ct. 1396.

The defendant in Anders was seeking review of a criminal conviction and moved for the appointment of counsel to represent him on appeal. See *id.* at 739, 87 S. Ct. 1396. Pursuant to the defendant's motion, counsel was appointed by the appellate court. See *id.* Following the appointment, counsel, after reviewing the record and consulting with the defendant, informed the court by letter that there was no merit to the appeal and that the defendant wished to file a brief pro se.

See *id.* at 739-40, 87 S. Ct. 1396. Following the denial of the *805 defendant's request for appointment of another attorney, he proceeded pro se and his conviction was affirmed. See *id.* at 740, 87 S. Ct. 1396. Subsequently, the defendant filed a petition for a writ of habeas corpus asserting a deprivation of his right to appointed counsel in his original appeal.

See *id.* The United States Supreme Court held that the procedures utilized by counsel and the California court did "not comport with fair procedure and lack[ed] that equality that is required by

the Fourteenth Amendment." Id. at 741, 87 S. Ct. 1396.

The High Court outlined the following procedures for appointed counsel to follow under these circumstances: [I]f counsel finds his case to be wholly frivolous, after a conscientious examination of it, he should so advise the court and request permission to withdraw. That request must, however, be accompanied by a brief referring to anything in the record that might arguably support the appeal.

A copy of counsel's brief should be furnished the indigent and time allowed him to raise any points that he chooses; the court not counsel then proceeds, after a full examination of all the proceedings, to decide whether the case is wholly frivolous. If it so finds it may grant counsel's request to withdraw and dismiss the appeal insofar as federal requirements are concerned, or proceed to a decision on the merits, if state law so requires.

On the other hand, if it finds any of the legal points arguable on their merits (and therefore not frivolous) it must, prior to decision, afford the indigent the assistance of counsel to argue the appeal. Id. at 744, 87 S. Ct. 1396; see also *In re Anders Briefs*, 581 So. 2d 149, 151 (Fla.1991).

We addressed the applicability of the Anders procedures to involuntary civil commitment orders under Florida's Baker Act in our 2001 decision in *Pullen v. State*, 802 So. 2d 1113 (Fla.2001). In *Pullen*, we rejected the argument that because Anders involved a criminal prosecution and was therefore based on the federal and state right to counsel in criminal prosecutions, those procedures were inapplicable to involuntary civil commitment orders.

See id. We concluded that "while Anders involved an indigent criminal defendant, the United States Supreme Court expressed an overriding concern for 'substantial equality and fair process' in the appellate process." Id. at 1117 (quoting *Anders*, 386 U.S. at 744, 87 S. Ct. 1396).

We noted that "an individual who faces involuntary commitment to a mental health facility has a liberty interest at stake." Id. at 1116. Moreover, we reiterated our holding in *In re Beverly*, 342 So. 2d 481 (Fla.1977), that constitutional due process requires that "[t]he subject of an involuntary civil commitment proceeding has the right to the effective assistance of counsel at all significant stages of the commitment process."

Pullen, 802 So.2d at 1116 (alteration in original) (quoting *In re Beverly*, 342 So.2d at 489). Concluding that confinement stemming from a court's involuntary commitment order effectuates a "massive curtailment of liberty" interests, we held that the "policies and interests served by the Anders procedures in criminal proceedings are also present in involuntary civil commitment proceedings under Florida's Baker Act."

Pullen, 802 So.2d at 1117, 1119. Accordingly, we held the Anders procedures applicable to involuntary civil commitments under the Baker Act. See id. at 1120. We now turn to the issue

presented by the certified question.

Under Florida's Involuntary Civil Commitment of Sexually Violent Predators' Treatment and Care Act (hereinafter "Jimmy Ryce Act"), §§ 394.910-.931 of the Florida Statutes (2002), persons determined to be sexually *806 violent predators[1] are required to be housed in a secure facility "for control, care, and treatment until such time as the person's mental abnormality or personality disorder has so changed that it is safe for the person to be at large." § 394.917(2), Fla. Stat. (2002).

Subsequent to this commitment, one found to be within the classification is periodically examined, at least annually, and a determination is to be made whether he or she may be released safely. See § 394.918, Fla. Stat. (2002). Given this statutory scheme, the district court aptly noted that "a person committed under this procedure could be held in a secure facility for the remainder of that person's life."

Williams, 852 So.2d at 435. Clearly, an involuntary civil commitment resulting in an individual's confinement for an indeterminate, and potentially indefinite, period of time presents the sort of "massive curtailment of liberty" interests with which we were concerned in Pullen. Given our decision in Pullen and the reasoning contained therein, we conclude that the protections afforded by the Anders procedures must be extended to appeals from involuntary civil commitments of sexually violent predators under the Jimmy Ryce Act.

Our conclusion in Pullen that involuntary commitments under the Baker Act, which are limited by statute to only six months, see section 394.467(6)(b), Florida Statutes (2003), involve a sufficient curtailment of liberty to justify application of the Anders procedures dictates that those same procedures also be applied to commitment orders entered pursuant to the Jimmy Ryce Act, which may result in confinement for an indeterminate and potentially indefinite period of time.

Based on the foregoing, we answer the certified question in the affirmative and approve the decision of the Fifth District Court of Appeal.[2] PARIENTE, C.J., and WELLS, ANSTEAD, QUINCE, CANTERO, and BELL, JJ., concur. NOTES [1] A "sexually violent predator" is defined by the Act as any person who: (a) Has been convicted of a sexually violent offense; and (b) Suffers from a mental abnormality or personality disorder that makes the person more likely to engage in acts of sexual violence if not confined in a secure facility for long-term control, care, and treatment. § 394.912(10), Fla. Stat. (2002).

[2] We decline to address the other claim asserted by the appellant Anthony Williams because it is outside the scope of the certified question and was not the basis of our discretionary review.