

COURT OF APPEALS FOR THE TENTH CIRCUIT

Moore v. Williams

Moore v. Williams, No. 20-1171 (10th Cir. Sept. 1, 2020) · No. 20-1171 · Decided September 1, 2020

SUMMARY

****Habeas Corpus – Certificate of Appealability – Procedural Default – Right to Testify**** The Tenth Circuit denied a COA in this § 2254 habeas action because the petitioner failed to challenge the district court’s analysis. The district court had held that two of petitioner’s claims (post-trial competency hearing and ineffective assistance of trial counsel) were procedurally defaulted due to failure to exhaust and that the **Martinez** exception did not apply. The remaining claim—invalid waiver of the right to testify—was rejected because it relied on state law rather than federal law, and the state court’s competency determination was reasonable.

CASE DETAILS

COURT	Court of Appeals for the Tenth Circuit
WRITING FOR THE COURT	Nancy L. Moritz; Lucero; Bacharach; Moritz
JURISDICTION	Federal
DECIDED	September 1, 2020
DOCKET	20-1171
DISPOSITION	denied
PROCEDURAL POSTURE	Denial of certificate of appealability for appeal of habeas petition denial
STANDARD OF REVIEW	For habeas, whether state court decision was contrary to or unreasonable application of federal law (28 U.S.C. § 2254(d)); for COA, substantial showing of denial of constitutional right (28 U.S.C. § 2253(c)(2)).
PRECEDENTIAL VALUE	unpublished
PARTIES	Lessell H. Moore v. Dean Williams; The Attorney General of the State of Colorado

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QUESTIONS PRESENTED

1. Whether Moore is entitled to a COA to appeal the denial of his habeas petition.
2. Whether the district court correctly found procedural default for new claims.
3. Whether the district court correctly denied the right-to-testify claim on the merits.

HOLDINGS

1. Moore's claims for improper posttrial competency hearing and ineffective assistance of trial counsel were procedurally defaulted because he failed to exhaust them in state court and was time-barred.
2. The state court's determination that Moore competently waived his right to testify was reasonable under federal law, and the claim based on state law requirements does not warrant habeas relief.
3. Moore is not entitled to a COA because he failed to challenge the district court's analysis and made no substantial showing of the denial of a constitutional right.

KEY QUOTATIONS

“resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established [f]ederal law’ or ‘resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented.’” (App. 195)

“there is no general requirement . . . that a trial court inquire into a defendant’s decision whether to testify, much less advise a defendant regarding the potential consequences of that decision.” (App. 198)

FACTUAL BACKGROUND

Moore was convicted of multiple violent crimes in Colorado and sentenced to 224 years. He claimed ineffective waiver of right to testify due to lack of competency and improper court advice. After state appeals, he filed federal habeas, raising these claims plus new ones on competency hearing and ineffective assistance of counsel.

PROCEDURAL HISTORY

Moore was convicted in Colorado state court and sentenced to 224 years. After state postconviction proceedings, he filed a federal habeas petition under 28 U.S.C. § 2254. The district court denied relief, finding two new claims procedurally defaulted and the right-to-testify claim without merit. Moore sought COA to appeal.

DISPOSITION

denied

CASES CITED

- Coleman v. Thompson, 501 U.S. 722 (1991)

- *Martinez v. Ryan*, 566 U.S. 1 (2012)
- *Turley v. Estep*, 375 F. App'x 867 (10th Cir. 2010)
- *Medina v. California*, 505 U.S. 437 (1992)
- *United States v. Fisher*, 38 F.3d 1144 (10th Cir. 1994)
- *Smith v. Aldridge*, 904 F.3d 874 (10th Cir. 2018)
- *Yang v. Archuleta*, 525 F.3d 925 (10th Cir. 2008)
- *People v. Curtis*, 681 P.2d 504 (Colo. 1984)

CITED IN

- *Moore v. Williams*, *Moore v. Williams*, 835 F. App'x 143, 145 (7th Cir. 2020)