

SUPREME COURT OF FLORIDA

Alan Lyndell Wade v. State of Florida

156 So. 3d 1004 (Fla. 2014) · No. SC13-1003 · Decided December 11, 2014

SUMMARY

The Supreme Court of Florida affirmed the denial of Alan Lyndell Wade’s motion for postconviction relief under Florida Rule of Criminal Procedure 3.851. The court rejected claims of ineffective assistance of counsel during the guilt phase, penalty phase, and jury selection, including challenges concerning suppression, evidentiary objections, mitigating evidence, and juror challenges. Wade’s convictions for two counts of first-degree murder and his two death sentences remained undisturbed.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Per Curiam; Labarga, C.J.; Pariente, J.; Lewis, J.; Quince, J.; Polston, J.; Perry, J.
JURISDICTION	Florida
DECIDED	December 11, 2014
DOCKET	SC13-1003
DISPOSITION	affirmed
PROCEDURAL POSTURE	Wade appealed the denial of his motion for postconviction relief under Florida Rule of Criminal Procedure 3.851, challenging his convictions and death sentences primarily through claims of ineffective assistance of trial counsel.
STANDARD OF REVIEW	The court deferred to postconviction factual findings supported by competent, substantial evidence and reviewed legal conclusions de novo. Ineffective-assistance claims were analyzed under the deficiency-and-prejudice standard of Strickland v. Washington.
PRECEDENTIAL VALUE	published opinion; binding precedent of the Supreme Court of Florida
PARTIES	Alan Lyndell Wade v. State of Florida

TOPICS

- state post-conviction relief
- ineffective assistance
- sentencing
- evidence
- criminal procedure

PRACTICE AREAS

criminal law

capital punishment

postconviction relief

ineffective assistance of counsel

evidence

QUESTIONS PRESENTED

1. Whether trial counsel was ineffective during the guilt phase for failing to file a suppression motion or object to evidence, recordings, photographs, hearsay, and opinion testimony.
2. Whether trial counsel was ineffective during the penalty phase for failing to investigate or present additional mitigation and for conceding the pecuniary-gain and HAC aggravating circumstances.
3. Whether trial counsel was ineffective during voir dire by misstating capital-sentencing law, failing to preserve cause challenges, or failing to challenge allegedly death-oriented jurors.
4. Whether the postconviction court properly denied Wade's Rule 3.851 claims after the evidentiary hearing.

HOLDINGS

1. Wade failed to establish deficient performance and prejudice under Strickland for counsel's decisions concerning the hotel-room search, recorded phone call, seized evidence, ATM photographs, witness testimony, hearsay, and opinion testimony.
2. Wade failed to show that a suppression motion would have succeeded because the warrant affidavit established probable cause and the alleged omission did not negate probable cause.
3. The recording of Jackson and Cole impersonating the Sumners was relevant and was not hearsay because it was not offered to prove the truth of the statements that the Sumners were alive and in Delaware.
4. Wade failed to prove ineffective assistance based on counsel's investigation and presentation of mitigation or counsel's concessions concerning pecuniary gain and HAC.
5. Wade failed to establish prejudice from counsel's alleged misstatement during voir dire because the jury was properly instructed that it was not required to recommend death merely because aggravating circumstances outweighed mitigating circumstances.

KEY QUOTATIONS

"In order to prevail on a claim of ineffective assistance of counsel, a defendant must show both that trial counsel's performance was deficient and that the deficient performance prejudiced the defendant so as to deprive him of a fair trial."

"The jurors in a capital case should not be told that if they conclude that the aggravating factors outweigh the mitigating factors, then the law requires them to recommend the death penalty."

FACTUAL BACKGROUND

Wade participated with Michael Jackson, Tiffany Cole, and Bruce Nixon in a planned robbery and kidnapping of Carol and Reggie Sumner, an elderly and vulnerable couple. The victims were restrained, placed in a vehicle,

and buried alive in a pre-dug grave, where they died from asphyxiation and smothering. Wade was arrested with the codefendants, and evidence linking him to the crimes was recovered from hotel rooms and vehicles. His trial counsel pursued a strategy portraying Jackson and Cole as the leaders and Wade as a lesser participant or accessory after the fact.

PROCEDURAL HISTORY

Wade was convicted of two counts of first-degree murder, two counts of kidnapping, and two counts of robbery and received two death sentences. The Supreme Court of Florida affirmed the convictions and sentences on direct appeal. Wade later filed a Rule 3.851 motion raising twelve postconviction claims. After an evidentiary hearing on specified guilt- and penalty-phase claims, the circuit court denied relief, and the Supreme Court of Florida affirmed.

DISPOSITION

affirmed

CASES CITED

- Wade v. State, 41 So. 3d 857 (Fla. 2010)
- Strickland v. Washington, 466 U.S. 668 (1984)
- Sochor v. State, 883 So. 2d 766 (Fla. 2004)
- Raleigh v. State, 932 So. 2d 1054 (Fla. 2006)
- Pagan v. State, 830 So. 2d 792 (Fla. 2002)
- Franks v. Delaware, 438 U.S. 154 (1978)
- Johnson v. State, 660 So. 2d 648 (Fla. 1995)
- Jackson v. State, 25 So. 3d 518 (Fla. 2009)
- Penalver v. State, 926 So. 2d 1118 (Fla. 2006)
- Occhicone v. State, 768 So. 2d 1037 (Fla. 2000)
- Atwater v. State, 788 So. 2d 223 (Fla. 2001)
- Shere v. State, 742 So. 2d 215 (Fla. 1999)
- Meeks v. State, 418 So. 2d 987 (Fla. 1982)
- Twilegar v. State, 42 So. 3d 177 (Fla. 2010)
- Keen v. State, 775 So. 2d 263 (Fla. 2000)
- State v. Belvin, 986 So. 2d 516 (Fla. 2008)
- Proctor v. State, 97 So. 3d 313 (Fla. 5th DCA 2012)
- Reynolds v. State, 99 So. 3d 459 (Fla. 2012)
- United States v. Lamons, 532 F.3d 1251 (11th Cir. 2008)
- Bowe v. State, 785 So. 2d 531 (Fla. 4th DCA 2001)
- Gordon v. State, 863 So. 2d 1215 (Fla. 2003)
- Henry v. State, 937 So. 2d 563 (Fla. 2006)

- Spann v. State, 985 So. 2d 1059 (Fla. 2008)
- Winkles v. State, 21 So. 3d 19 (Fla. 2009)
- Griffin v. State, 866 So. 2d 1 (Fla. 2003)
- Gore v. State, 846 So. 2d 461 (Fla. 2003)
- Windom v. State, 886 So. 2d 915 (Fla. 2004)
- Porter v. State, 788 So. 2d 917 (Fla. 2001)
- Clark v. State, 35 So. 3d 880 (Fla. 2010)
- Gamble v. State, 877 So. 2d 706 (Fla. 2004)
- Diaz v. State, 860 So. 2d 960 (Fla. 2003)
- State v. Dixon, 283 So. 2d 1 (Fla. 1973)
- Franqui v. State, 804 So. 2d 1185 (Fla. 2001)
- Henyard v. State, 689 So. 2d 239 (Fla. 1996)
- Davis v. State, 136 So. 3d 1169 (Fla. 2014)
- Krawczuk v. State, 92 So. 3d 195 (Fla. 2012)
- Anderson v. State, 18 So. 3d 501 (Fla. 2009)
- Green v. State, 975 So. 2d 1090 (Fla. 2008)
- Carratelli v. State, 961 So. 2d 312 (Fla. 2007)