

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
MISSOURI

Williams v. United States

304 F. Supp. 691 (E.D. Mo. 1969) · Decided September 19, 1969

SUMMARY

The court considers a federal prisoner’s successive motion under 28 U.S.C. § 2255 to vacate his narcotics conviction and sentence. The petitioner alleged that he was denied an opportunity for allocution and received ineffective assistance because counsel was silent at sentencing. The court granted leave to proceed in forma pauperis but overruled the motion, holding that the claims did not support collateral relief.

CASE DETAILS

COURT	United States District Court for the Eastern District of Missouri
WRITING FOR THE COURT	Harper, Chief Judge
JURISDICTION	Missouri
DECIDED	September 19, 1969
DISPOSITION	other
PROCEDURAL POSTURE	Petitioner sought relief under 28 U.S.C. § 2255 to vacate his sentence and requested leave to proceed in forma pauperis. The district court granted leave to proceed in forma pauperis but overruled the motion to vacate.
STANDARD OF REVIEW	Relief under 28 U.S.C. § 2255 is available only for a sentence that is unlawful or otherwise subject to collateral attack; the alleged sentencing error must be cognizable under § 2255. An ineffective-assistance claim requires conduct amounting to a breach of counsel's legal duty.
PRECEDENTIAL VALUE	Published federal district court memorandum opinion; persuasive authority within the jurisdiction and not binding on appellate courts.
PARTIES	Williams v. United States

TOPICS

- post-conviction relief
- sentencing
- ineffective assistance
- right to counsel
- criminal procedure

PRACTICE AREAS

Federal post-conviction relief

Sentencing

Ineffective assistance of counsel

Criminal procedure

QUESTIONS PRESENTED

1. Whether the alleged failure to specifically ask Williams whether he wished to make a statement at sentencing was an error cognizable in a motion under 28 U.S.C. § 2255.
2. Whether retained counsel's silence at sentencing constituted ineffective assistance warranting vacation of the sentence under § 2255.

HOLDINGS

1. A trial court's failure to specifically ask whether a defendant personally wishes to make a statement at sentencing is not, by itself, an error that may be raised through a motion to vacate sentence under 28 U.S.C. § 2255. The record also showed an extended colloquy before sentencing and did not establish that Williams had additional mitigating information to present.
2. Williams's retained counsel was not ineffective merely because counsel was silent at sentencing. A claim of improper representation in this circumstance requires conduct amounting to a breach of a legal duty, and the record instead showed that Williams was ably represented by experienced and competent counsel.

KEY QUOTATIONS

“the failure of a trial court to specifically ask whether defendant personally desires to make a statement at the time of sentencing is not of itself an error which can be raised by a motion to vacate sentence.” (692)

“His silence at the time of sentencing is not a ground for collateral attack of sentence.” (693)

FACTUAL BACKGROUND

Williams received a twenty-year sentence after a jury convicted him of violating the federal narcotics laws. At sentencing, the record showed an extended colloquy between Williams and the court before sentence was imposed, although Williams contended that he was not expressly invited to make a statement in mitigation. He also claimed that his retained counsel was ineffective because counsel remained silent at sentencing, but he identified no mitigating facts or allegations that he would have presented.

PROCEDURAL HISTORY

Williams was convicted by a jury of violating the federal narcotics laws and sentenced to twenty years' imprisonment. The conviction was affirmed on appeal. His prior § 2255 motion challenging the failure to provide allocution was denied by the district court and affirmed by the Court of Appeals, and a later § 2255 motion was also overruled. In this successive motion, Williams again challenged allocution and asserted ineffective assistance based on counsel's silence at sentencing.

DISPOSITION

other

CASES CITED

- Williams v. United States, 328 F.2d 256
- Williams v. United States, 236 F. Supp. 648
- United States v. Bebig, 302 F.2d 335 (4th Cir. 1962)
- Machibroda v. United States, 368 U.S. 487, 489 (1962)
- Williams v. United States, 344 F.2d 264 (8th Cir. 1965), cert. denied, 382 U.S. 857 (1965)
- Bone v. United States, 351 F.2d 11 (8th Cir. 1965)
- Alexander v. United States, 290 F.2d 252 (5th Cir. 1961)

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