

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Christopher L.L. v. Donnie Ames

No. 19-0007 (W. Va. Oct. 13, 2020) (memorandum decision) · No. No. 19-0007 · Decided October 13, 2020

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed the denial of Christopher L.L.'s habeas corpus petition. The court held that his claim alleging ineffective assistance of habeas counsel was not properly reviewable on direct appeal and could instead be pursued through a separate habeas petition.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice Tim Armstead; Justice Margaret L. Workman; Justice Elizabeth D. Walker; Justice Evan H. Jenkins; Justice John A. Hutchison
JURISDICTION	West Virginia
DECIDED	October 13, 2020
DOCKET	No. 19-0007
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petitioner appealed the Harrison County Circuit Court's order denying his habeas corpus petition alleging ineffective assistance of trial counsel. On appeal, he argued that his habeas counsel was ineffective for failing to introduce and use documents to corroborate his testimony and impeach trial counsel.
STANDARD OF REVIEW	The Court considered the applicable standard of review, the briefs, and the record, and found no substantial question of law or prejudicial error. It declined to review the ineffective-assistance claim on the merits because the claim was not properly before the Court on direct appeal.
PRECEDENTIAL VALUE	nonprecedential memorandum decision
PARTIES	Christopher L.L. v. Donnie Ames, Superintendent, Mt. Olive Correctional Center

TOPICS

state post-conviction relief

ineffective assistance

habeas corpus

appellate procedure

standard of review

PRACTICE AREAS

post-conviction relief

criminal procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether petitioner's claim that his habeas counsel rendered ineffective assistance could be reviewed on direct appeal from the denial of habeas relief.
2. Whether the Supreme Court should reach the merits of petitioner's allegations that habeas counsel failed to introduce documents and cross-examine trial counsel regarding billing vouchers and jail logs.

HOLDINGS

1. Ineffective-assistance-of-counsel claims are generally not properly raised on direct appeal, and the Court would not reach petitioner's claim concerning the effectiveness of his habeas counsel because the claim was not properly before the Court on the existing record.
2. The circuit court's order denying the petition for habeas corpus relief was affirmed.

KEY QUOTATIONS

"This Court has consistently held that claims of ineffective assistance of counsel are not properly raised on direct appeal." (3)

"The prudent defense counsel first develops the record regarding ineffective assistance of counsel in a habeas corpus proceeding before the lower court, and may then appeal if such relief is denied." (3)

FACTUAL BACKGROUND

Petitioner was convicted of sexually abusing his six-year-old daughter after the child reported that he had digitally penetrated her and placed his penis in her mouth. At the omnibus habeas hearing, petitioner testified that trial counsel met with him only briefly, failed to provide discovery, and did not adequately communicate with him. Trial counsel gave contrary testimony that he met with petitioner multiple times, reviewed discovery with him, and provided discovery materials to petitioner's wife.

PROCEDURAL HISTORY

Petitioner was convicted by a jury in 2013 of incest, first-degree sexual assault, first-degree sexual abuse, and sexual abuse by a parent, and received consecutive sentences. The Supreme Court of Appeals of West Virginia affirmed his convictions in a 2014 memorandum decision. After an omnibus habeas hearing, the circuit court denied habeas relief, concluding that petitioner had not substantiated ineffective assistance under Strickland and Miller. The Supreme Court affirmed, declining to consider petitioner's claim that habeas counsel was ineffective because that claim was not properly presented for direct appellate review.

DISPOSITION

affirmed

CASES CITED

- In re K.H., 235 W. Va. 254, 773 S.E.2d 20 (2015)
- In re Jeffrey R.L., 190 W. Va. 24, 435 S.E.2d 162 (1993)
- State v. Edward Charles L., 183 W. Va. 641, 398 S.E.2d 123 (1990)
- State v. Christopher L.L., No. 14-0095, 2014 WL 5546350 (W. Va. Nov. 3, 2014) (memorandum decision)
- Strickland v. Washington, 466 U.S. 668 (1984)
- State v. Miller, 194 W. Va. 3, 459 S.E.2d 114 (1995)
- City of Philippi v. Weaver, 208 W. Va. 346, 351, 540 S.E.2d 563, 568 (2000)
- State v. Triplett, 187 W. Va. 760, 421 S.E.2d 511 (1992), Syl. Pt. 10

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