

SUPREME COURT OF TEXAS

In re M.P.A.

364 S.W.3d 277 (Tex. 2012) · Decided May 18, 2012

SUMMARY

The court considers M.P.A.'s habeas claims based on recantations by two witnesses, allegedly false expert testimony concerning the Abel Assessment, and ineffective assistance of counsel. It denies relief on the actual-innocence and ineffective-assistance claims but holds that the State's expert testimony contributed to M.P.A.'s sentence and orders a new disposition hearing.

CASE DETAILS

COURT	Supreme Court of Texas
WRITING FOR THE COURT	Justice Guzman
JURISDICTION	Texas
DECIDED	May 18, 2012
DISPOSITION	remanded
PROCEDURAL POSTURE	M.P.A. sought habeas relief after a juvenile adjudication for sexual assault of a child and a twenty-year sentence. The district court denied relief, and the court of appeals affirmed. The Supreme Court of Texas granted review and partially granted habeas relief.
STANDARD OF REVIEW	The court deferred to habeas-court credibility findings supported by the record, reviewed legal conclusions de novo, and reviewed the harm from false testimony under a preponderance-of-the-evidence standard. Reliability of scientific expert testimony was evaluated under the Kelly framework.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	M.P.A. v. State of Texas

TOPICS

state post-conviction relief actual innocence expert testimony evidence ineffective assistance

PRACTICE AREAS

juvenile law criminal law post-conviction habeas evidence

QUESTIONS PRESENTED

1. Whether the recantations established actual innocence under the clear-and-convincing-evidence standard.
2. Whether M.P.A. could raise a false-testimony claim through habeas proceedings despite not raising the issue earlier.
3. Whether the State expert's false testimony concerning the reliability of the Abel Assessment was inadmissible under the Kelly reliability standard.
4. Whether the false expert testimony contributed to M.P.A.'s sentence and required a new disposition hearing.
5. Whether trial counsel rendered ineffective assistance during the adjudication phase by failing to investigate or challenge evidence concerning whether a sexual assault occurred.

HOLDINGS

1. M.P.A. was not entitled to habeas relief on actual-innocence grounds because he did not establish by clear and convincing evidence that no reasonable juror would have convicted him in light of the recantations.
2. M.P.A.'s false-testimony claim was properly before the court notwithstanding his failure to raise it at trial or on direct appeal.
3. Had the State expert testified truthfully about the Abel Assessment's accuracy rate and supporting literature, the trial court would have excluded the testimony because the State would not have established its reliability under Kelly.
4. The false testimony contributed to M.P.A.'s sentence, and M.P.A. was entitled to a new disposition hearing.
5. M.P.A. did not establish ineffective assistance of counsel during the adjudication phase.

KEY QUOTATIONS

"A false testimony claim is subject to harmless-error review." (285)

"Given the evidence regarding the Abel Assessment's application to adolescents, had Willoughby testified truthfully, the State would not have established the assessment's reliability under Kelly." (289)

"Therefore, we conclude that the State's use of Willoughby's testimony at closing contributed to M.P.A.'s sentence." (290)

FACTUAL BACKGROUND

M.P.A., a juvenile, was adjudicated for sexually assaulting his seven-year-old cousin based primarily on testimony from two child witnesses, both of whom later recanted. During the disposition phase, the State's psychologist testified that an Abel Assessment showed M.P.A. was a pedophile with significant sexual interest in children, but the psychologist misstated the assessment's accuracy rate and the supporting literature. The jury

sentenced M.P.A. to twenty years' confinement, and the psychologist later entered an agreed order acknowledging that he had misstated research concerning the assessment.

PROCEDURAL HISTORY

A jury found that M.P.A. committed sexual assault of a child and assessed twenty years' confinement. After the alleged victims recanted, M.P.A. filed a habeas application asserting actual innocence, false testimony, and ineffective assistance of counsel. The habeas court rejected the recantations as not credible, found that the State expert's testimony did not contribute to the sentence, and found trial counsel effective. The court of appeals affirmed. The Supreme Court of Texas denied relief on actual innocence and adjudication-phase ineffective assistance, but ordered a new disposition hearing because false expert testimony contributed to the sentence.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The district court was directed to grant M.P.A.'s writ of habeas corpus in accordance with the opinion, resulting in a new disposition or sentencing hearing.

CASES CITED

- Ex Parte Elizondo, 947 S.W.2d 202, 209-10 (Tex. Crim. App. 1996)
- Ex Parte Amezcuita, 223 S.W.3d 363, 367 (Tex. Crim. App. 2006)
- Keeter v. State, 74 S.W.3d 31, 33, 37-39 (Tex. Crim. App. 2002)
- Ex parte Calderon, 309 S.W.3d 64, 65 (Tex. Crim. App. 2010)
- Ex parte Thompson, 153 S.W.3d 416, 417 (Tex. Crim. App. 2005)
- Ex parte Tuley, 109 S.W.3d 388, 393 n. 2 (Tex. Crim. App. 2002)
- Ex parte Napper, 322 S.W.3d 202, 228, 241-43 (Tex. Crim. App. 2010)
- Ex parte Pena, 71 S.W.3d 336, 337-38 (Tex. Crim. App. 2002)
- Ex parte Fierro, 934 S.W.2d 370, 371-75 & n. 10 (Tex. Crim. App. 1996)
- Ex parte Ghahremani, 332 S.W.3d 470, 477, 481 (Tex. Crim. App. 2011)
- Ex parte Chabot, 300 S.W.3d 768, 770-72 (Tex. Crim. App. 2009)
- Estrada v. State, 313 S.W.3d 274, 287-88 (Tex. Crim. App. 2010)
- Kelly v. State, Kelly v. State, 824 S.W.2d 568, 571-73 (Tex. Crim. App. 1992)
- In re D.W.P., No. 06-07-00113-CV, 2008 WL 53211, at *1 (Tex. App.—Texarkana Jan. 4, 2008, no pet.)
- Nenno v. State, 970 S.W.2d 549, 560-62 & n. 9 (Tex. Crim. App. 1998)
- State v. Terrazas, 4 S.W.3d 720, 727 (Tex. Crim. App. 1999)
- Mendoza v. State, No. AP-75213, 2008 WL 4803471, at *22 n. 62 (Tex. Crim. App. Nov. 5, 2008)
- Ex parte Williams, 65 S.W.3d 656, 658 (Tex. Crim. App. 2001)
- Reliance National Indemnity Co. v. Advanced Temporaries, Inc., 227 S.W.3d 46, 50 (Tex. 2007)

- Service Corp. International v. Guerra, 348 S.W.3d 221, 236 (Tex. 2011)
- Mathis v. State, 67 S.W.3d 918, 929 (Tex. Crim. App. 2002) (Johnson, J., concurring)
- LaPoint v. State, 750 S.W.2d 180, 192 (Tex. Crim. App. 1988)
- In re R.D.B., 20 S.W.3d 255, 258 (Tex. App.—Texarkana 2000, no pet.)
- Perry Homes v. Cull, 258 S.W.3d 580, 598 (Tex. 2008)
- Gersten v. Senkowski, 426 F.3d 588, 608-10 (2d Cir. 2005)
- Ex parte Spencer, 337 S.W.3d 869, 878 (Tex. Crim. App. 2011)
- In re Hall, 286 S.W.3d 925, 927 (Tex. 2009)
- Ex parte Valle, 104 S.W.3d 888, 889 (Tex. Crim. App. 2003)
- Wainwright v. Witt, 469 U.S. 412, 428 (1985)