

SUPREME COURT OF FLORIDA

Mark A. Twilegar v. State of Florida

175 So. 3d 242 (Fla. 2015) · No. SC13-2169 · Decided May 28, 2015

SUMMARY

The Supreme Court of Florida affirmed the denial of Mark A. Twilegar’s motion for postconviction relief from his first-degree murder conviction and death sentence. The court rejected his ineffective-assistance claims, public-records access and constitutional challenges, and other claims concerning juror misconduct and jury selection.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Per Curiam; Labarga, C.J.; Pariente, J.; Lewis, J.; Quince, J.; Canady, J.; Polston, J.; Perry, J.
JURISDICTION	Florida
DECIDED	May 28, 2015
DOCKET	SC13-2169
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from an order denying a motion for postconviction relief under Florida Rule of Criminal Procedure 3.851 following a first-degree murder conviction and death sentence.
STANDARD OF REVIEW	Summary denial of a postconviction claim is reviewed de novo and is proper when the motion is legally insufficient or the allegations are conclusively refuted by the record. Ineffective-assistance claims present mixed questions of law and fact: factual findings supported by competent, substantial evidence receive deference, while legal conclusions are reviewed de novo.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Mark A. Twilegar v. State of Florida

TOPICS

- state post-conviction relief
- post-conviction relief
- ineffective assistance
- appellate procedure
- criminal procedure

PRACTICE AREAS

capital postconviction litigation

criminal procedure

ineffective assistance of counsel

appellate procedure

QUESTIONS PRESENTED

1. Whether the circuit court properly summarily denied Twilegar's claims concerning juror misconduct and ineffective assistance during jury selection.
2. Whether trial counsel rendered ineffective assistance by inadequately challenging the State's forensic evidence.
3. Whether trial counsel rendered ineffective assistance by failing to call David Twomey as a witness.
4. Whether Florida Statutes section 119.19 and Florida Rule of Criminal Procedure 3.852 were facially or as-applied unconstitutional because they restricted access to public records sought for postconviction claims.

HOLDINGS

1. The circuit court properly summarily denied the claims because they were legally insufficient or conclusively refuted by the record.
2. Twilegar failed to establish deficient performance or prejudice based on counsel's handling of the medical examiner's testimony and failure to call a defense forensic expert.
3. Counsel's decision not to call Twomey was a reasonable strategic decision because of concerns about Twomey's credibility, and the claim therefore failed.
4. Twilegar's facial and as-applied constitutional challenges failed because he did not show that he was denied access to records related to a colorable postconviction claim.

KEY QUOTATIONS

“The summary denial of a postconviction claim will be upheld if the motion is legally insufficient or its allegations are conclusively refuted by the record.” (at 246)

“There is a strong presumption that trial counsel’s performance was not deficient.” (at 247)

“the production of public records is not intended to be a “procedure authorizing a fishing expedition for records unrelated to a colorable claim for postconviction relief.”” (at 250)

FACTUAL BACKGROUND

Twilegar was convicted of murdering David Thomas, who was shot at close range and buried near a tent where Twilegar had lived. The State’s case included evidence linking Twilegar to Thomas before his disappearance, the burial site, a shotgun shell, the burned rental car, cash purchases, and recorded jailhouse calls. In postconviction proceedings, Twilegar alleged that trial counsel inadequately challenged the forensic evidence, failed to call a witness who allegedly saw Thomas after his disappearance, and was ineffective in other respects; he also challenged restrictions on access to public records.

PROCEDURAL HISTORY

Twilegar was convicted of first-degree premeditated murder and sentenced to death in the circuit court. The Florida Supreme Court affirmed the conviction and sentence on direct appeal in 2010. Twilegar later filed an amended Rule 3.851 motion; the circuit court summarily denied several claims, conducted an evidentiary hearing on an ineffective-assistance claim, and denied the motion. The Florida Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Twilegar v. State, 42 So. 3d 177 (Fla. 2010)
- Davis v. State, 142 So. 3d 867, 875 (Fla. 2014)
- Strickland v. Washington, 466 U.S. 668 (1984)
- Long v. State, 118 So. 3d 798, 805-06 (Fla. 2013)
- Bolin v. State, 41 So. 3d 151, 155, 159-60 (Fla. 2010)
- Michel v. Louisiana, 350 U.S. 91, 101 (1955)
- Occhicone v. State, 768 So. 2d 1037, 1048 (Fla. 2000)
- Melendez v. State, 612 So. 2d 1366, 1369 (Fla. 1992)
- Shellito v. State, 121 So. 3d 445, 451 (Fla. 2013)
- Mungin v. State, 79 So. 3d 726, 737 (Fla. 2011)
- Sochor v. State, 883 So. 2d 766, 771-72 (Fla. 2004)
- Evans v. State, 995 So. 2d 933, 940-43 (Fla. 2008)
- Lamarca v. State, 931 So. 2d 838, 848-49 (Fla. 2006)
- Marquard v. State, 850 So. 2d 417, 427 (Fla. 2003)
- Chavez v. State, 132 So. 3d 826, 829 (Fla. 2014)
- Valle v. State, 70 So. 3d 530, 549 (Fla. 2011)
- Dennis v. State, 109 So. 3d 680, 699 (Fla. 2012)
- Diaz v. State, 945 So. 2d 1136, 1150 (Fla. 2006)
- Abdool v. Bondi, 141 So. 3d 529, 551 (Fla. 2014)