

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Henry S. v. Donnie Ames

Henry S. v. Ames, No. 19-1137 (W. Va. Aug. 27, 2021) · No. No. 19-1137 · Decided August 27, 2021

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed the Circuit Court of Clay County’s denial of Henry S.’s petition for a writ of habeas corpus. The petitioner alleged ineffective assistance of trial counsel concerning communication, discovery, investigation, plea advice, coercion, and post-sentencing representation. The court held that the petitioner failed to establish prejudice under the Strickland/Miller standard because he did not show a reasonable probability that, absent counsel’s alleged errors, he would have rejected the plea and proceeded to trial.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice Evan H. Jenkins; Justice Elizabeth D. Walker; Justice Tim Armstead; Justice John A. Hutchison; Justice William R. Wooton
JURISDICTION	West Virginia
DECIDED	August 27, 2021
DOCKET	No. 19-1137
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petitioner appealed the Circuit Court of Clay County’s denial of his petition for a writ of habeas corpus alleging ineffective assistance of trial counsel.
STANDARD OF REVIEW	The ultimate disposition and final order in a habeas action are reviewed for abuse of discretion, underlying factual findings are reviewed for clear error, and questions of law are reviewed de novo. Ineffective-assistance claims are governed by the two-pronged Strickland/Miller test.
PRECEDENTIAL VALUE	Published memorandum decision affirming denial of habeas relief
PARTIES	Henry S. v. Donnie Ames, Superintendent, Mt. Olive Correctional Complex

TOPICS

state post-conviction relief

habeas corpus

ineffective assistance

plea bargaining

appellate procedure

PRACTICE AREAS

post-conviction relief

criminal procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether the circuit court erred in denying habeas relief based on petitioner's claims that trial counsel rendered ineffective assistance.
2. Whether petitioner established the prejudice prong of the Strickland/Miller test by showing a reasonable probability that, but for counsel's alleged errors, he would not have pleaded guilty and would have insisted on going to trial.

HOLDINGS

1. Petitioner was not entitled to habeas relief because he failed to show a reasonable probability that, but for trial counsel's alleged errors, he would not have entered the plea and would have insisted on going to trial.
2. The Supreme Court of Appeals affirmed the circuit court's denial of habeas relief after applying abuse-of-discretion review to the ultimate disposition, clear-error review to factual findings, and de novo review to legal questions.

KEY QUOTATIONS

"In reviewing challenges to the findings and conclusions of the circuit court in a habeas corpus action, we apply a three-prong standard of review. We review the final order and the ultimate disposition under an abuse of discretion standard; the underlying factual findings under a clearly erroneous standard; and questions of law are subject to a de novo review." (3)

"In cases involving a criminal conviction based upon a guilty plea, the prejudice requirement of the two-part test established by Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984), and State v. Miller, 194 W. Va. 3, 459 S.E.2d 114 (1995), demands that a habeas petitioner show that there is a reasonable probability that, but for counsel's errors, he would not have pleaded guilty and would have insisted on going to trial." (3)

"Failure to meet the burden of proof imposed by either part of the Strickland/Miller test is fatal to a habeas petitioner's claim." (3)

FACTUAL BACKGROUND

Petitioner pleaded no contest to one count of first-degree sexual assault after the State dismissed three additional charges. In his habeas proceeding, he alleged that trial counsel failed to investigate, provide and explain discovery and the plea agreement, advise him about the potential sentence and consequences of the plea, communicate adequately, and pursue other requested actions. The habeas court credited the plea colloquy and

other record evidence, finding that petitioner had been advised of his rights and plea terms and that he failed to establish deficient performance or prejudice.

PROCEDURAL HISTORY

A grand jury indicted petitioner on two counts of first-degree sexual assault and two counts of sexual abuse by a parent, guardian, custodian, or person in a position of trust. Petitioner entered a no-contest plea to one count of first-degree sexual assault in exchange for dismissal of the remaining counts and was sentenced to an indeterminate term of twenty-five to one hundred years of incarceration and twenty-five years of post-release sexual-offender supervision. This Court affirmed the conviction and sentence on direct appeal. Petitioner later filed a habeas petition alleging ineffective assistance of counsel; after an omnibus hearing, the circuit court denied relief, and the Supreme Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- In re K.H., 235 W. Va. 254, 773 S.E.2d 20 (2015)
- Melinda H. v. William R. II, 230 W. Va. 731, 742 S.E.2d 419 (2013)
- State v. Brandon B., 218 W. Va. 324, 624 S.E.2d 761 (2005)
- State v. Edward Charles L., 183 W. Va. 641, 398 S.E.2d 123 (1990)
- State v. Henry S., No. 12-0796, 2013 WL 3184854 (W. Va. June 24, 2013)
- Mathena v. Haines, 219 W. Va. 417, 633 S.E.2d 771 (2006)
- Anstey v. Ballard, 237 W. Va. 411, 787 S.E.2d 864 (2016)
- Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984)
- State v. Miller, 194 W. Va. 3, 459 S.E.2d 114 (1995)
- State ex rel. Vernatter v. Warden, W. Va. Penitentiary, 207 W. Va. 11, 528 S.E.2d 207 (1999)
- State ex rel. Daniel v. Legursky, 195 W. Va. 314, 321, 465 S.E.2d 416, 423 (1995)