

SUPREME COURT OF LOUISIANA

State v. Moore

208 So. 3d 880 (La. 2017) · Decided January 9, 2017

SUMMARY

Justice Crichton additionally concurs in a Louisiana criminal case involving ineffective assistance of counsel and the habitual offender law's 10-year cleansing period. He concludes that the cleansing period had not elapsed because the defendant spent part of the period incarcerated, meaning counsel did not err in failing to challenge the habitual offender adjudication. He also discusses a split among Louisiana appellate circuits concerning whether the State must prove the cleansing period has not expired and whether the issue should be reviewed as an error patent.

CASE DETAILS

COURT	Supreme Court of Louisiana
WRITING FOR THE COURT	Crichton, J.; Crichton; Grant; Hughes
JURISDICTION	Louisiana
DECIDED	January 9, 2017
DISPOSITION	other
PROCEDURAL POSTURE	Post-conviction ineffective-assistance claim concerning counsel's failure to challenge the defendant's habitual-offender adjudication based on the alleged expiration of the statutory cleansing period.
STANDARD OF REVIEW	Ineffective-assistance claims are evaluated under Strickland v. Washington's two-prong deficient-performance and prejudice framework. The concurrence also discusses error-patent review of the cleansing-period issue.
PRECEDENTIAL VALUE	Published concurring opinion; the concurrence's reasoning is not independently binding.
PARTIES	State of Louisiana v. Moore

TOPICS

post-conviction relief ineffective assistance sentencing statutory interpretation appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether counsel was ineffective for failing to establish that the habitual-offender statute's ten-year cleansing period had expired.
2. Whether time spent incarcerated must be excluded when calculating the habitual-offender cleansing period.
3. Whether the failure to prove expiration of the cleansing period should be reviewed as an error patent on the face of the record.

HOLDINGS

1. Counsel committed no error because the ten-year cleansing period had not elapsed after excluding Moore's time in penal institutions; therefore, counsel had no valid basis to contest the second-felony-offender adjudication.
2. A finding that counsel did not perform deficiently ends the Strickland inquiry and makes a separate prejudice analysis unnecessary.

KEY QUOTATIONS

"The finding of no error ends the Strickland inquiry and obviates any need to conduct the second-prong prejudice analysis." (880)

"While I feel that this case does not present the optimal forum to resolve this circuit split, it is my view that the judicial system would benefit from the implementation of error patent review of this issue." (881)

FACTUAL BACKGROUND

Moore was convicted of armed robbery and adjudicated a second felony offender under Louisiana's habitual-offender law. The relevant ten-year cleansing period included approximately eleven years between commencement of the period and the armed robbery, but Moore spent at least four of those years incarcerated. The concurrence concluded that time spent in a penal institution does not accrue toward the ten-year period.

PROCEDURAL HISTORY

Moore, who had been convicted of armed robbery and adjudicated a second felony offender, challenged his adjudication in post-conviction proceedings. The district court ruled against him, and the court of appeal reversed the district court's ruling. Justice Crichton's concurrence states that the court of appeal reached the correct result, although possibly for the wrong reason.

DISPOSITION

other

CASES CITED

- Strickland v. Washington, 466 U.S. 668, 687, 104 S. Ct. 2052, 2064, 80 L. Ed. 2d 674 (1984)
- State v. Robinson, 47,427, p. 7 (La. App. 2 Cir. 10/3/12), 105 So. 3d 751, 755
- State v. Abdul, 11-863 (La. App. 5 Cir. 4/24/12), 94 So. 3d 801, 820-21
- State v. Baker, 452 So. 2d 737, 745-46 (La. App. 1 Cir. 1984)

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