

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Thomas E. Leftwich v. Jonathan Frame, Superintendent, Mt. Olive
Correctional Facility and Jail

No. 24-218 (Raleigh County No. CC-41-2023-C-73) · No. No. 24-218; Raleigh County No. CC-41-2023-C-73 ·
Decided January 13, 2026

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed the denial of Thomas E. Leftwich’s second petition for habeas corpus relief. The court held that his ineffective-assistance-of-habeas-counsel claim lacked sufficient factual specificity and that his remaining claims were barred by res judicata.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice C. Haley Bunn; Justice William R. Wooton; Justice Charles S. Trump IV; Justice Thomas H. Ewing; Justice Gerald M. Titus III
JURISDICTION	Supreme Court of Appeals of West Virginia
DECIDED	January 13, 2026
DOCKET	No. 24-218; Raleigh County No. CC-41-2023-C-73
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from an order of the Circuit Court of Raleigh County denying the petitioner's second petition for habeas corpus relief.
STANDARD OF REVIEW	The circuit court's order and ultimate disposition are reviewed for abuse of discretion, underlying factual findings for clear error, and questions of law de novo.
PRECEDENTIAL VALUE	Published memorandum decision; the opinion states that it is appropriate to affirm by memorandum decision under W. Va. R. App. P. 21(c).
PARTIES	Thomas E. Leftwich v. Jonathan Frame, Superintendent, Mt. Olive Correctional Facility and Jail

TOPICS

- state post-conviction relief
- successive petitions
- ineffective assistance
- habeas corpus
- appellate procedure

PRACTICE AREAS

state post-conviction relief

criminal procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether the circuit court properly rejected Leftwich's claim that counsel in his first habeas proceeding was ineffective.
2. Whether res judicata barred the claims that Leftwich had previously raised or that had been fully adjudicated in his first habeas proceeding.
3. Whether the circuit court abused its discretion by denying the second habeas petition without appointing counsel or conducting an evidentiary hearing.

HOLDINGS

1. A conclusory allegation that prior habeas counsel was ineffective, without detailed factual support identifying deficient performance and resulting prejudice, does not establish entitlement to habeas relief or require appointment of counsel or an evidentiary hearing.
2. Claims that were raised and fully adjudicated in a prior habeas proceeding are barred by res judicata in a subsequent habeas petition.
3. The circuit court did not abuse its discretion in denying Leftwich's second habeas petition.

KEY QUOTATIONS

“The petitioner simply is mistaking the lack of successes for ineffective assistance of counsel” (at 2)

“There is absolutely no indication in the record anywhere that [habeas] counsel could have done something different and achieved a different result.” (at 2)

“On an appeal to this Court the appellant bears the burden of showing that there was error in the proceedings below resulting in the judgment of which he complains, all presumptions being in favor of the correctness of the proceedings and judgment in and of the trial court.” (at 2)

FACTUAL BACKGROUND

In 2008, a jury convicted Thomas E. Leftwich of first-degree murder and conspiracy arising from the death of an undercover police officer in Beckley, West Virginia. The jury did not recommend mercy, and Leftwich received life imprisonment without parole for murder plus a consecutive one-to-five-year sentence for conspiracy. In his first habeas proceeding, he raised multiple claims, waived grounds not listed on his Losh checklist, and obtained no relief. In his second habeas petition, he reasserted prior claims and alleged ineffective assistance by habeas counsel, but supplied no specific facts identifying what counsel should have done differently or how the result would have changed.

PROCEDURAL HISTORY

A jury convicted Leftwich in 2008 of first-degree murder and conspiracy, and the circuit court imposed life imprisonment without parole for murder and a consecutive one-to-five-year sentence for conspiracy. His direct

criminal appeal was refused in 2009, and the Supreme Court of the United States denied certiorari. The circuit court denied his first habeas petition in 2020, and the Supreme Court of Appeals of West Virginia affirmed that denial. Leftwich filed a second habeas petition in March 2023; the circuit court denied it on April 1, 2024, concluding that the ineffective-assistance-of-habeas-counsel claim lacked specificity and that the remaining claims were barred by res judicata. The Supreme Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- Leftwich v. West Virginia, 558 U.S. 974 (2009)
- Losh v. McKenzie, 166 W. Va. 762, 277 S.E.2d 606 (1981)
- Leftwich v. Ames, No. 20-0143, 2022 WL 673688 (W. Va. Jan. 12, 2023)
- Mathena v. Haines, 219 W. Va. 417, 633 S.E.2d 771 (2006)
- Dement v. Pszczolkowski, 245 W. Va. 564, 859 S.E.2d 732 (2021)
- State v. Miller, 194 W. Va. 3, 459 S.E.2d 114 (1995)
- Perdue v. Coiner, 156 W. Va. 467, 194 S.E.2d 657 (1973)