

SUPREME COURT OF ALABAMA

Ex parte Wilding

41 So. 3d 75 (Ala. 2009) · No. 1080339 · Decided December 30, 2009

SUMMARY

The Supreme Court of Alabama denied Albert Wilding’s petition for a writ of mandamus challenging the Court of Criminal Appeals’ order vacating a trial court’s decision to set bail in his capital-murder case. The court held that the trial court had not applied the governing presumption of guilt applicable to a defendant held under a capital indictment, and that the Court of Criminal Appeals had a sufficient legal basis to issue mandamus.

CASE DETAILS

COURT	Supreme Court of Alabama
WRITING FOR THE COURT	Parker, Justice; Cobb, Chief Justice; Lyons, Justice; Woodall, Justice; Stuart, Justice; Smith, Justice; Bolin, Justice; Murdock, Justice
JURISDICTION	Alabama
DECIDED	December 30, 2009
DOCKET	1080339
DISPOSITION	writ_denied
PROCEDURAL POSTURE	Albert Wilding petitioned the Supreme Court of Alabama for a writ of mandamus directing the Alabama Court of Criminal Appeals to vacate its writ ordering the Montgomery Circuit Court to set aside an order setting bail in Wilding's capital-murder case.
STANDARD OF REVIEW	Mandamus requires a clear legal right, an imperative duty accompanied by refusal to perform, lack of another adequate remedy, and properly invoked jurisdiction. Because mandamus is extraordinary, the reviewing court asks whether there is a clear showing of error by the trial court. Under the ore tenus standard, factual findings are presumed correct and are upheld unless unsupported by credible evidence.
PRECEDENTIAL VALUE	Published, precedential opinion of the Supreme Court of Alabama
PARTIES	Albert Wilding v. State of Alabama

TOPICS

bail

criminal procedure

appellate procedure

standard of review

remedies

PRACTICE AREAS

criminal procedure

bail

appellate procedure

mandamus

QUESTIONS PRESENTED

1. Whether the Alabama Court of Criminal Appeals properly issued a writ of mandamus directing the Montgomery Circuit Court to vacate its order setting bail for a defendant held under an indictment for a capital offense.
2. Whether a capital defendant held under indictment bears the burden of overcoming the indictment's presumption of guilt before being entitled to bail as a matter of right.
3. Whether the Montgomery Circuit Court's bail order constituted a clear error subject to correction by mandamus.

HOLDINGS

1. A defendant imprisoned for a capital offense by virtue of an indictment is presumed guilty in the highest degree and, to obtain bail as a matter of right, must overcome that presumption by proof.
2. The Court of Criminal Appeals had a sufficient legal basis to issue mandamus because the circuit court's order did not address Wilding's burden to overcome the indictment's presumption of guilt.

KEY QUOTATIONS

“Because there was no proof addressing the presumption, the Court of Criminal Appeals did not err when it relied on precedent that requires such proof to find a clear showing of error on the part of the trial court.”
(78)

“Because the Court of Criminal Appeals had a sufficient legal basis to issue the writ of mandamus ordering the trial court to set aside its order setting bail for Wilding, we deny Wilding's petition for a writ of mandamus.” (78)

FACTUAL BACKGROUND

Wilding was indicted for murdering his wife, Judie Wilding, for pecuniary gain, a capital offense under Alabama law. Judie disappeared in 2000 and her body was never found; her personal effects were found in the couple's home, and her automobile contained a loaded pistol and cash. Wilding was the beneficiary of a life-insurance policy on Judie's life exceeding \$800,000. At the bail hearing, Wilding presented testimony concerning his health and community ties, while the State presented no testimony concerning the strength of its case.

PROCEDURAL HISTORY

Wilding was indicted for capital murder and initially denied bail. The Montgomery Circuit Court later set bail at \$100,000 after a Rule 7 hearing. The State sought mandamus in the Court of Criminal Appeals, which ordered the circuit court to vacate its bail order; Wilding then sought mandamus in the Supreme Court of Alabama. On

rehearing, the Supreme Court withdrew its earlier opinion, substituted the present opinion, and denied Wilding's petition.

DISPOSITION

writ_denied

CASES CITED

- Ex parte Landers, 690 So. 2d 537, 538 (Ala. Crim. App. 1997)
- Livingston v. State, 40 Ala. App. 376, 377, 116 So. 2d 396, 397 (1959)
- Ex parte Patel, 879 So. 2d 532, 533-34 (Ala. 2003)
- Trammell v. State, 284 Ala. 31, 32, 221 So. 2d 390, 390 (1969)
- Roan v. State, 24 Ala. App. 517, 517, 137 So. 320, 321 (1931)
- Webb v. State, 35 Ala. App. 575, 576, 50 So. 2d 451, 452 (1951)
- Roddam v. State, 33 Ala. App. 356, 33 So. 2d 384 (1948)
- Ex parte Hall, 844 So. 2d 571, 573 (Ala. 2002)
- Burks v. State, 600 So. 2d 374 (Ala. Crim. App.), on return to remand, 600 So. 2d 387 (Ala. Crim. App. 1991)
- Ex parte Bynum, 294 Ala. 78, 82, 312 So. 2d 52, 55 (1975)
- Ex parte Sellers, 31 So. 3d 665, 667 (Ala. 2009)
- Ex parte Atlantis Dev. Co., 897 So. 2d 1022, 1024 (Ala. 2004)
- Ex parte Jackson, 737 So. 2d 452, 453 (Ala. 1999)
- Ex parte Alfab, Inc., 586 So. 2d 889, 891 (Ala. 1991)
- Ex parte Finance America Corp., 507 So. 2d 458, 460 (Ala. 1987)
- W.D. Williams, Inc. v. Ivey, 777 So. 2d 94, 98 (Ala. 2000)