

SUPREME COURT OF LOUISIANA

State v. Blank

192 So. 3d 93 (La. 2016) · Decided May 13, 2016

SUMMARY

The Louisiana Supreme Court denied Daniel Joseph Blank’s application for post-conviction relief from his first-degree murder conviction and death sentence. The court rejected claims involving ineffective assistance of counsel, juror misconduct, judicial recusal, actual innocence, false testimony, Brady violations, and cumulative error, and held that Blank had exhausted his state collateral-review remedies absent a narrow exception for a successive application.

CASE DETAILS

COURT	Supreme Court of Louisiana
WRITING FOR THE COURT	Per curiam
JURISDICTION	Louisiana
DECIDED	May 13, 2016
DISPOSITION	writ_denied
PROCEDURAL POSTURE	Relator sought review of the denial of his applications for state post-conviction relief following his capital murder conviction and death sentence.
STANDARD OF REVIEW	The court reviewed the post-conviction claims under the applicable Louisiana post-conviction procedures, including procedural bars and the standards governing ineffective assistance of counsel, actual innocence, juror misconduct, judicial recusal, false testimony, and Brady claims. It deferred to counsel's reasonable strategic choices and required a showing of prejudice or a material effect on the verdict before granting relief.
PRECEDENTIAL VALUE	published precedential opinion

TOPICS

- state post-conviction relief
- successive petitions
- actual innocence
- ineffective assistance
- evidence

PRACTICE AREAS

- criminal law
- post-conviction relief
- capital punishment
- criminal procedure
- evidence

QUESTIONS PRESENTED

1. Whether the district court improperly dismissed as repetitive ineffective-assistance claims whose underlying issues had been considered on direct appeal.
2. Whether Blank was entitled to remand or post-conviction relief on his penalty-phase ineffective-assistance claim.
3. Whether alleged juror misconduct required an evidentiary hearing or remand under the jury-shield rule.
4. Whether Blank's judicial-impartiality and failure-to-recite claims were procedurally barred or substantively meritless.
5. Whether Blank satisfied Louisiana's demanding standard for a free-standing actual-innocence claim based on newly asserted facts.
6. Whether trial counsel was ineffective in litigating the confession, investigating other suspects, presenting expert testimony, or challenging the State's evidence.
7. Whether alleged false testimony and suppression of exculpatory or impeachment evidence violated Blank's constitutional rights.
8. Whether cumulative error or incorporated claims warranted post-conviction relief.
9. Whether Blank had exhausted his right to state collateral review, subject to the narrow exceptions for successive applications.

HOLDINGS

1. Ineffective-assistance claims predicated on issues actually considered on direct appeal are not genuinely new claims and may be dismissed as repetitive under La. Code Crim. Proc. art. 930.4(A).
2. An erroneous dismissal of a post-conviction claim on procedural grounds does not necessarily require remand; supervisory relief generally is not warranted absent material injustice or a significant effect on the public interest.
3. Blank was not entitled to remand on his penalty-phase ineffective-assistance claim because he failed to show prejudice from the omission of additional evidence concerning his troubled childhood where the jury heard extensive evidence of his cognitive impairments and detailed confession.
4. Juror-misconduct allegations that do not concern extraneous prejudicial information do not justify inquiry into jury deliberations or remand for juror testimony.
5. A recusal claim based on facts known before trial is procedurally barred when the defendant does not timely move for recusal, and counsel is not ineffective for declining to pursue a motion unsupported by evidence of actual bias or prejudice.
6. A Louisiana post-conviction petitioner asserting a free-standing, non-DNA actual-innocence claim must present new, material, noncumulative, and conclusive evidence so compelling that no reasonable juror could have voted to convict with knowledge of it.
7. Blank failed to establish ineffective assistance based on counsel's failure to present additional expert evidence challenging the reliability or admissibility of his confession because he did not show that the confession would have been excluded or that the verdict would have been affected.

8. An alleged falsehood concerning whether a particular report documented a blade of grass did not warrant relief because Blank failed to show a reasonable likelihood that the discrepancy affected the verdict, and the claim was also waived by failure to object.
9. Blank failed to establish a Brady violation because the record showed that most challenged materials were disclosed, the remaining materials were not shown to contain favorable evidence, and the alleged omissions were not sufficiently significant to undermine the fairness of the trial.
10. Blank was not entitled to relief based on cumulative error because he failed to establish prejudice from any individual claim, and Louisiana had not endorsed cumulative-error relief on the asserted grounds.
11. After full litigation of the post-conviction application, Blank exhausted his right to state collateral review unless he could satisfy one of the narrow exceptions authorizing a successive application.

KEY QUOTATIONS

“a post-conviction petitioner asserting his actual innocence (not based on DNA) must present “new material, noncumulative and conclusive evidence which meets an extraordinarily high standard, and which undermines the prosecution’s entire case.”” (at 98)

“Hereafter, unless Blank can show that one of the narrow exceptions authorizing the filing of a successive application applies, he has exhausted his right to state collateral review.” (at 103)

FACTUAL BACKGROUND

In 1999, a Terrebonne Parish jury found Daniel Joseph Blank guilty of murdering Lillian Philippe, who was 71 years old. The State introduced a recorded confession in which Blank described the murder and admitted involvement in five other home-invasion murders and two attempted murders; the confession contained details not publicly released and was corroborated by physical and circumstantial evidence. The jury unanimously imposed death based on aggravating circumstances involving aggravated burglary and the victim's age.

PROCEDURAL HISTORY

A Terrebonne Parish jury convicted Blank of first degree murder and imposed a death sentence. The Louisiana Supreme Court affirmed his conviction and sentence, and the United States Supreme Court denied certiorari. Blank later filed a post-conviction application supplemented by appointed counsel. The district court dismissed some claims on procedural grounds, denied the remaining claims after an evidentiary hearing, and the Louisiana Supreme Court denied further relief and ordered entry of a consistent minute entry.

DISPOSITION

writ_denied

REMAND INSTRUCTIONS

The district court was ordered to record a minute entry consistent with the per curiam. No remand for further proceedings was ordered.

CASES CITED

- State v. Blank, 955 So. 2d 90 (La. 2007)
- Blank v. Louisiana, 552 U.S. 994 (2007)
- State v. Lee, 181 So. 3d 631, 638 (La. 2015)
- State v. Singer, 45 So. 3d 171, 171-72 (La. 2010) (per curiam)
- Strickland v. Washington, 466 U.S. 668 (1984)
- State v. Washington, 491 So. 2d 1337, 1339 (La. 1986)
- Tanner v. United States, 483 U.S. 107, 117 (1987)
- State v. Edwards, 420 So. 2d 663, 673 (La. 1982)
- State v. Collins, 288 So. 2d 602, 604 (La. 1974)
- State v. Kenner, 336 So. 2d 824, 831 (La. 1976)
- State v. Conway, 816 So. 2d 290 (La. 2002)
- State v. Pierre, 125 So. 3d 403, 409 (La. 2013)
- State v. Davis, 449 So. 2d 466, 468 (La. 1984)
- Soffar v. Dretke, 368 F.3d 441, 473-74 (5th Cir. 2004), amended on reh'g in part, 391 F.3d 703 (5th Cir. 2004)
- Wiggins v. Smith, 539 U.S. 510, 527 (2003)
- Sanders v. State, 738 S.W.2d 856, 858 (Mo. 1987)
- Jones v. Jones, 988 F. Supp. 1000, 1002-03 (E.D. La. 1997)
- Lockhart v. Fretwell, 506 U.S. 364, 372 (1993)
- Giglio v. United States, 405 U.S. 150, 154 (1972)
- Napue v. Illinois, 360 U.S. 264, 271 (1959)
- State v. Whitley, 637 So. 2d 459 (La. 1994)
- Brady v. Maryland, 373 U.S. 83 (1963)
- United States v. Agurs, 427 U.S. 97, 112 (1976)
- Kyles v. Whitley, 514 U.S. 419, 434 (1995)
- United States v. Bagley, 473 U.S. 667, 678 (1985)
- State v. Strickland, 683 So. 2d 218, 239 (La. 1996)
- State v. Taylor, 669 So. 2d 364 (La. 1996)
- State v. Tart, 672 So. 2d 116, 164 (La. 1996)
- State v. Copeland, 530 So. 2d 526, 544-45 (La. 1988)
- State v. Graham, 422 So. 2d 123, 137 (La. 1982)
- Mullen v. Blackburn, 808 F.2d 1143, 1147 (5th Cir. 1987)
- State v. Bay, 529 So. 2d 845, 851 (La. 1988)