

SUPREME COURT OF FLORIDA

Leonardo Franqui v. State of Florida

59 So. 3d 82 (Fla. 2011) · No. SC05-830 · Decided January 6, 2011

SUMMARY

The Supreme Court of Florida affirmed the denial of Leonardo Franqui's motion for postconviction relief under Florida Rule of Criminal Procedure 3.850. The court rejected claims concerning mental retardation and the Eighth Amendment, ineffective assistance of counsel, prosecutorial comments, penalty-phase evidence, and recanted testimony. The court held that competent, substantial evidence supported the finding that Franqui did not meet Florida's statutory test for mental retardation and concluded that the remaining claims did not warrant relief.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Canady, C.J.; Pariente, J.; Lewis, J.; Quince, J.; Polston, J.; Labarga, J.
JURISDICTION	Florida
DECIDED	January 6, 2011
DOCKET	SC05-830
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from an order of the circuit court denying Franqui's first, amended motion for postconviction relief under Florida Rule of Criminal Procedure 3.850 challenging his first-degree murder conviction and death sentence.
STANDARD OF REVIEW	Legal conclusions and rulings on summary denial of Rule 3.850 claims are reviewed de novo. A determination that a defendant is not mentally retarded is reviewed for competent, substantial evidence, with deference to the circuit court's credibility determinations and weighing of evidence. The legal application of the law to facts in Brady and Giglio claims is reviewed de novo, while factual findings supported by competent, substantial evidence receive deference.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Leonardo Franqui v. State of Florida

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QUESTIONS PRESENTED

1. Whether Florida's strict IQ cutoff of 70 or below for the intellectual-functioning prong of mental retardation is consistent with *Atkins v. Virginia* and the Eighth Amendment.
2. Whether the circuit court improperly summarily denied Franqui's ineffective-assistance claims based on counsel's failure to object to prosecutorial comments.
3. Whether counsel was ineffective for failing to present Dr. Brad Fisher's penalty-phase testimony.
4. Whether counsel was ineffective for failing to present Vivian Gonzalez's testimony at the suppression hearing or at the guilt and penalty phases.
5. Whether the State violated *Brady v. Maryland* by suppressing favorable evidence concerning Pablo Abreu's testimony.
6. Whether the State violated *Giglio v. United States* by knowingly presenting false or material testimony from Abreu.
7. Whether Franqui was entitled to postconviction relief under Rule 3.850.

HOLDINGS

1. Florida's statutory and judicial requirement of an IQ score of 70 or below for the first prong of the mental-retardation test does not violate *Atkins* or the Eighth Amendment. *Atkins* left the states to develop appropriate procedures and definitions for enforcing the constitutional restriction on executing mentally retarded persons.
2. The circuit court properly denied Franqui's ineffective-assistance claim concerning counsel's failure to object to prosecutorial comments because, even assuming deficient performance as to some comments, Franqui failed to establish *Strickland* prejudice.
3. The circuit court properly summarily denied the ineffective-assistance claim based on counsel's failure to call Dr. Fisher during the penalty phase.
4. The circuit court properly denied the ineffective-assistance claim based on counsel's failure to call Gonzalez at the suppression hearing or at trial.
5. Franqui failed to establish a *Brady* violation because the record did not show that the State suppressed favorable evidence and the alleged timing discrepancy in Abreu's testimony was not material.
6. Franqui failed to establish a *Giglio* violation because he did not prove that Abreu's penalty-phase testimony was false, that the prosecutor knowingly presented false testimony, or that any inconsistency was material.

KEY QUOTATIONS

“Based on the broad authority given in Atkins to the states to enact their own laws to determine who is mentally retarded, without any requirement that the states adhere to one definition over another, we deny Franqui's claim that our interpretation of Atkins is infirm.” (94)

“Both versions of Abreu's testimony meet these requirements.” (106)

FACTUAL BACKGROUND

Franqui was convicted of murdering Raul Lopez during an attempted robbery of a check-cashing business in December 1991. The prosecution presented evidence that Franqui and codefendants planned the robbery, used stolen vehicles and firearms, and that Franqui confessed to participating in the plan and firing toward Lopez. At the penalty phase, codefendant Pablo Abreu testified concerning the planning of the robbery and killing, and the trial court imposed a death sentence based on several aggravating circumstances. Franqui later challenged the conviction and sentence through Rule 3.850 proceedings, asserting mental retardation, ineffective assistance, and Brady and Giglio violations.

PROCEDURAL HISTORY

Franqui was convicted of first-degree murder and sentenced to death. The Supreme Court of Florida affirmed the remaining convictions and sentences on direct appeal, while reversing two attempted-murder convictions. Franqui filed a Rule 3.850 postconviction motion raising claims including mental retardation under Atkins, ineffective assistance of counsel, and Brady and Giglio violations. The circuit court summarily denied most claims, held evidentiary hearings on claims concerning codefendant Pablo Abreu's testimony, and denied the remaining mental-retardation claim after additional evidentiary proceedings and two relinquishments of jurisdiction. The Supreme Court of Florida affirmed the denial of postconviction relief.

DISPOSITION

affirmed

CASES CITED

- Franqui v. State, 699 So. 2d 1312 (Fla. 1997)
- Atkins v. Virginia, 536 U.S. 304 (2002)
- Cherry v. State, 959 So. 2d 702 (Fla. 2007)
- Nixon v. State, 2 So. 3d 137 (Fla. 2009)
- Ford v. Wainwright, 477 U.S. 399 (1986)
- Jones v. State, 966 So. 2d 319 (Fla. 2007)
- Brown v. State, 959 So. 2d 146 (Fla. 2007)
- Evans v. State, 800 So. 2d 182 (Fla. 2001)
- Williams v. State, 37 So. 3d 187 (Fla. 2010)
- Strickland v. Washington, 466 U.S. 668 (1984)
- Porter v. McCollum, 558 U.S. 30 (2009)

- Michel v. Louisiana, 350 U.S. 91 (1955)
- Willacy v. State, 967 So. 2d 131 (Fla. 2007)
- State v. Coney, 845 So. 2d 120 (Fla. 2003)
- Occhicone v. State, 768 So. 2d 1037 (Fla. 2000)
- Freeman v. State, 761 So. 2d 1055 (Fla. 2000)
- Eaglin v. State, 19 So. 3d 935 (Fla. 2009)
- Bruno v. State, 807 So. 2d 55 (Fla. 2001)
- Anderson v. State, 18 So. 3d 501 (Fla. 2009)
- Salazar v. State, 991 So. 2d 364 (Fla. 2008)
- Bonifay v. State, 680 So. 2d 413 (Fla. 1996)
- Brooks v. State, 762 So. 2d 879 (Fla. 2000)
- Maxwell v. Wainwright, 490 So. 2d 927 (Fla. 1986)
- Winkles v. State, 21 So. 3d 19 (Fla. 2009)
- Reed v. State, 875 So. 2d 415 (Fla. 2004)
- Terry v. State, 668 So. 2d 954 (Fla. 1996)
- Brady v. Maryland, 373 U.S. 83 (1963)
- Mordenti v. State, 894 So. 2d 161 (Fla. 2004)
- Strickler v. Greene, 527 U.S. 263 (1999)
- Way v. State, 760 So. 2d 903 (Fla. 2000)
- United States v. Bagley, 473 U.S. 667 (1985)
- Duest v. State, 12 So. 3d 734 (Fla. 2009)
- Kyles v. Whitley, 514 U.S. 419 (1995)
- Rivera v. State, 995 So. 2d 191 (Fla. 2008)
- Giglio v. United States, 405 U.S. 150 (1972)
- Tompkins v. State, 994 So. 2d 1072 (Fla. 2008)
- Rhodes v. State, 986 So. 2d 501 (Fla. 2008)
- Hurst v. State, 18 So. 3d 975 (Fla. 2009)
- Guzman v. State, 941 So. 2d 1045 (Fla. 2006)
- State v. DiGuilio, 491 So. 2d 1129 (Fla. 1986)
- Sochor v. State, 883 So. 2d 766 (Fla. 2004)
- Lowe v. State, 2 So. 3d 21 (Fla. 2008)
- Franklin v. State, 965 So. 2d 79 (Fla. 2007)
- Penry v. Lynaugh, 492 U.S. 302 (1989)
- State v. Gray, 654 So. 2d 552 (Fla. 1995)
- Coicou v. State, 39 So. 3d 237 (Fla. 2010)
- Ring v. Arizona, 536 U.S. 584 (2002)
- Ake v. Oklahoma, 470 U.S. 68 (1985)

- Huff v. State, 622 So. 2d 982 (Fla. 1993)
- Rodriguez v. State, 39 So. 3d 275 (Fla. 2010)
- Valentine v. State, 688 So. 2d 313 (Fla. 1996)

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