

SUPREME COURT OF ARKANSAS

Millsap v. Kelley

2016 Ark. 324 (2016) · No. CV-16-404 · Decided September 22, 2016

SUMMARY

The Arkansas Supreme Court affirmed the dismissal of Lee Charles Millsap Jr.'s petition for a writ of habeas corpus. Millsap argued that his life-without-parole sentence for capital murder was facially invalid because the death penalty had been waived. The court held that the applicable statutes could be read in harmony and that life imprisonment without parole was a permissible sentence.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Arkansas
DECIDED	September 22, 2016
DOCKET	CV-16-404
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the dismissal of a petition for writ of habeas corpus by the Lincoln County Circuit Court.
STANDARD OF REVIEW	A grant or denial of habeas relief is not reversed unless the circuit court's findings are clearly erroneous. Statutory interpretation is reviewed de novo, without deference to the circuit court's interpretation.
PRECEDENTIAL VALUE	Published Arkansas Supreme Court opinion; precedential.
PARTIES	Lee Charles Millsap, Jr. v. Wendy Kelley, Director, Arkansas Department of Correction

TOPICS

- habeas corpus
- post-conviction relief
- statutory interpretation
- appellate procedure
- sentencing

PRACTICE AREAS

- criminal procedure
- post-conviction relief
- habeas corpus
- statutory interpretation

QUESTIONS PRESENTED

1. Whether Millsap's life-without-parole sentence for capital murder was facially invalid because the death penalty had been waived and Arkansas Code Annotated section 16-89-108(b) states that punishment cannot be fixed at more than life imprisonment.
2. Whether Millsap established probable cause to believe that he was illegally detained and was therefore entitled to habeas relief.

HOLDINGS

1. A life-without-parole sentence is within the statutory range for capital murder even when the death penalty has been waived; section 16-89-108(b) does not prohibit imposition of the only permissible alternative sentence under section 5-10-101.
2. Millsap was not entitled to habeas relief because he failed to establish that the judgment was facially invalid or that the trial court lacked jurisdiction, and therefore failed to show probable cause that he was illegally detained.

KEY QUOTATIONS

“A writ of habeas corpus is proper when a judgment of conviction is invalid on its face or when a circuit court lacks jurisdiction over the cause.” (at 2)

“In construing any statute, we place it beside other statutes relevant to the subject matter in question and ascribe meaning and effect to be derived from the whole.” (at 3)

“Statutes relating to the same subject must be construed together and in harmony, if possible.” (at 3)

FACTUAL BACKGROUND

In 1998, Millsap entered negotiated guilty pleas in the Pulaski County Circuit Court to capital murder, first-degree terroristic threatening, and second-degree battery. He received life imprisonment without parole for capital murder, and the death penalty was waived. In his habeas petition, he argued that Arkansas Code Annotated section 16-89-108(b), which provides that punishment cannot exceed life imprisonment when the death penalty is waived, made his sentence facially invalid.

PROCEDURAL HISTORY

Millsap filed a pro se petition for a writ of habeas corpus in the Lincoln County Circuit Court, where he was incarcerated. The circuit court dismissed the petition, concluding that his life-without-parole sentence for capital murder was within the statutory range and that he had not shown probable cause for issuance of the writ. The Arkansas Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Philyaw v. Kelley, 2015 Ark. 465, 477 S.W.3d 503
- Fields v. Hobbs, 2013 Ark. 416
- Hobbs v. Gordon, 2014 Ark. 225, 434 S.W.3d 364
- State v. Thomas, 2014 Ark. 362, 439 S.W.3d 690
- Butler v. State, 261 Ark. 369, 549 S.W.2d 65 (1977)
- State v. Colvin, 2013 Ark. 203, 427 S.W.3d 635

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