

SUPREME COURT OF LOUISIANA

State v. Ford

57 So. 3d 297 (La. 2011) · Decided February 4, 2011

SUMMARY

In this opinion excerpt, Justice Johnson would grant a post-conviction writ application challenging the effectiveness of counsel in a capital murder case. The excerpt concludes that defense counsel’s lack of experience, failure to investigate mitigating evidence, and inadequate preparation for the penalty phase rendered the death sentence unreliable and caused actual prejudice. Justice Johnson would affirm the conviction but remand for resentencing.

CASE DETAILS

COURT	Supreme Court of Louisiana
WRITING FOR THE COURT	Johnson, J.
JURISDICTION	Louisiana
DECIDED	February 4, 2011
DISPOSITION	remanded
PROCEDURAL POSTURE	Relator sought post-conviction relief through a writ application, alleging ineffective assistance of counsel during the guilt and capital penalty phases of his first-degree-murder trial.
STANDARD OF REVIEW	Under Strickland v. Washington, the court examines whether counsel's performance fell below an objective standard of reasonableness and whether the deficient performance prejudiced the defendant. For penalty-phase mitigation claims, the court first determines whether a reasonable investigation would have uncovered mitigating evidence, then considers whether counsel had a tactical reason for not presenting it, and finally determines whether the omission caused actual prejudice.
PRECEDENTIAL VALUE	dissenting

TOPICS

- ineffective assistance
- sentencing
- post-conviction relief
- criminal procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether trial counsel provided ineffective assistance during the capital penalty phase by failing to investigate, develop, and present mitigating evidence.
2. Whether counsel's deficient penalty-phase performance caused actual prejudice by rendering the death sentence unreliable.
3. Whether the conviction should be affirmed while the death sentence is vacated or remanded for resentencing.

HOLDINGS

1. The dissent would hold that counsel's complete unfamiliarity with capital litigation, inadequate investigation of mitigating evidence, failure to secure relevant witnesses, and failure to prepare witnesses constituted deficient performance under Strickland.
2. The dissent would hold that relator suffered actual prejudice because counsel's failures caused a breakdown in the adversarial process and rendered the death penalty unreliable.

KEY QUOTATIONS

“a reviewing court must reverse a conviction if the defendant establishes that (1) counsel’s performance fell below an objective standard of reasonableness under prevailing professional norms; and (2) counsel’s inadequate performance prejudiced defendant to the extent that the trial was rendered unfair, and the verdict suspect.” (at 297)

“A defendant at the penalty phase of a capital trial is entitled to the assistance of a reasonably competent attorney acting as a diligent, conscientious advocate for his life.” (at 297)

“Ms. LaVigne’s complete unfamiliarity with capital litigation and her lack of experience in presenting a mitigation case resulted in a breakdown of the adversarial process which rendered the death penalty unreliable.” (at 298)

FACTUAL BACKGROUND

Relator was convicted of first-degree murder and sentenced to death in 1985. He was represented by two appointed attorneys who had little or no jury-trial or criminal-defense experience; penalty-phase counsel had never conducted a capital mitigation case and met with relator only minimally. Counsel conducted little investigation into relator's California upbringing, failed to locate or prepare significant mitigation witnesses, and relied primarily on relator's estranged father, whose testimony did not provide the anticipated mitigating presentation.

PROCEDURAL HISTORY

A Caddo Parish jury convicted relator of first-degree murder and imposed a death sentence in 1985. In the post-conviction proceeding, relator challenged the effectiveness of his appointed trial counsel, particularly counsel's

investigation and presentation of mitigating evidence during the penalty phase. The supplied opinion is Judge Johnson's dissent, which would affirm the conviction but remand for resentencing.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The dissent would affirm the first-degree-murder conviction and remand for resentencing because ineffective assistance rendered the death penalty unreliable.

CASES CITED

- Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984)
- State v. Washington, 491 So. 2d 1337, 1339 (La. 1986)
- State v. Fuller, 454 So. 2d 119, 124 (La. 1984)
- State v. Berry, 430 So. 2d 1005, 1007 (La. 1983)
- State v. Myles, 389 So. 2d 12, 28 (La. 1980) (on rehearing)
- Burger v. Kemp, 483 U.S. 776, 788-89, 107 S. Ct. 3114, 3122-26, 97 L. Ed. 2d 638 (1987)
- State v. Sanders, 93-0001, pp. 25-26 (La. 11/30/94), 648 So. 2d 1272, 1291 (La. 1994)
- State v. Hamilton, 92-2639, p. 6 (La. 7/1/97), 699 So. 2d 29, 32 (La. 1997)
- State v. Brooks, 94-2438 (La. 10/15/95), 661 So. 2d 1333

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