

SUPREME COURT OF FLORIDA

Duckett v. State; Duckett v. Crosby, Jr.

918 So. 2d 224 (Fla. 2005) · No. Nos. SC01-2149, SC02-1300 · Decided October 6, 2005

SUMMARY

The Supreme Court of Florida reviewed James Aren Duckett’s appeal from the denial of his Florida Rule of Criminal Procedure 3.850 post-conviction motion and his petition for a writ of habeas corpus. The court rejected claims involving recanted testimony, physical evidence, Brady disclosure obligations, ineffective assistance of counsel, penalty-phase proceedings, and related constitutional issues. The court affirmed the post-conviction order and denied habeas relief.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                                                        |
|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Florida                                                                                                                                                                                                                                                                                                                                                                               |
| WRITING FOR THE COURT | Per Curiam; Pariente, C.J.; Wells, J.; Anstead, J.; Lewis, J.; Quince, J.; Cantero, J.; Bell, J.                                                                                                                                                                                                                                                                                                       |
| JURISDICTION          | Florida                                                                                                                                                                                                                                                                                                                                                                                                |
| DECIDED               | October 6, 2005                                                                                                                                                                                                                                                                                                                                                                                        |
| DOCKET                | Nos. SC01-2149, SC02-1300                                                                                                                                                                                                                                                                                                                                                                              |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                                                                                                                                                               |
| PROCEDURAL POSTURE    | Duckett appealed the circuit court's denial of his motion for postconviction relief under Florida Rule of Criminal Procedure 3.850 and separately petitioned the Supreme Court of Florida for a writ of habeas corpus. After oral argument, the Supreme Court temporarily relinquished jurisdiction for the limited purpose of determining whether certain clothing could be subjected to DNA testing. |
| STANDARD OF REVIEW    | The court reviewed the denial of postconviction relief, including ineffective-assistance claims under the deficient-performance and prejudice requirements of Strickland v. Washington. It applied the applicable standards for recanted testimony, Brady claims, postconviction DNA testing, and habeas claims.                                                                                       |
| PRECEDENTIAL VALUE    | Published precedential opinion of the Supreme Court of Florida                                                                                                                                                                                                                                                                                                                                         |
| PARTIES               | James Aren Duckett v. State of Florida                                                                                                                                                                                                                                                                                                                                                                 |

TOPICS

state post-conviction relief

habeas corpus

ineffective assistance

actual innocence

evidence

## PRACTICE AREAS

Florida criminal postconviction

death penalty litigation

habeas corpus

ineffective assistance of counsel

Brady disclosure

## QUESTIONS PRESENTED

1. Whether recanted testimony by a prosecution witness warranted a new trial.
2. Whether trial counsel rendered ineffective assistance by failing to investigate or present evidence concerning the prosecution witness, physical evidence, consolidation of the charges, additional penalty-phase witnesses, or psychological testing.
3. Whether the State violated *Brady v. Maryland* and *Kyles v. Whitley* by failing to disclose allegedly favorable or impeaching evidence.
4. Whether the circuit court properly limited DNA testing to clothing identified in the Supreme Court's relinquishment order.
5. Whether Duckett could assert new *Brady* and *Kyles* claims during the limited relinquishment proceeding.
6. Whether Duckett was entitled to habeas relief based on actual innocence, alleged deficiencies in direct appellate review, ineffective assistance of appellate counsel, or *Ring* and *Apprendi*.

## HOLDINGS

1. Recanted testimony warrants a new trial only when the change in testimony is likely to produce a different verdict; because the witness would not testify at a new trial and substantial circumstantial evidence independently supported the verdict, Duckett was not entitled to a new trial.
2. Duckett failed to establish ineffective assistance because he did not demonstrate deficient performance and resulting prejudice under *Strickland*.
3. Duckett failed to establish a *Brady* violation because he did not show that the claimed evidence was favorable, suppressed by the State, and prejudicial; a report concerning the State's expert did not exist until after Duckett's trial and direct appeal.
4. The circuit court properly limited DNA testing to clothing because the Supreme Court's relinquishment order was narrowly drafted and did not authorize testing of additional non-clothing items.
5. Duckett's habeas claim that his death sentence violated *Ring v. Arizona* and *Apprendi v. New Jersey* was without merit because *Ring* did not apply retroactively to his case.

## KEY QUOTATIONS

*"Only when it appears that, on a new trial, the witness's testimony will change to such an extent as to render probable a different verdict will a new trial be granted."* (233)

*"Rule 3.853 is not intended to be a fishing expedition."* (238)

## FACTUAL BACKGROUND

In May 1987, Teresa McAbee, an eleven-year-old girl, was last seen with Duckett, a police officer on patrol in Mascotte. Her body was later found in a nearby lake, and the State presented circumstantial evidence linking Duckett to the crime, including tire tracks, fingerprints on his patrol car, and hair evidence. Duckett was convicted of sexual battery and first-degree murder and sentenced to death. His postconviction claims challenged witness recantation, physical evidence, alleged Brady violations, counsel's investigation and penalty-phase presentation, DNA testing, and appellate representation.

## PROCEDURAL HISTORY

Duckett was convicted of first-degree murder and sexual battery and sentenced to death for the murder. The Supreme Court of Florida affirmed the conviction and sentence on direct appeal. After the circuit court denied his initial, amended, and consolidated postconviction motions following evidentiary hearings, Duckett appealed. The circuit court also denied requests to test additional non-clothing items and rejected a motion seeking compliance with Brady and Kyles as beyond the scope of the Supreme Court's limited relinquishment order.

## DISPOSITION

affirmed

## REMAND INSTRUCTIONS

None. The court affirmed the circuit court's denial of postconviction relief, affirmed the orders entered after relinquishment of jurisdiction, and denied the habeas petition.

## CASES CITED

- Duckett v. State, 568 So. 2d 891, 892-95 (Fla. 1990)
- Armstrong v. State, 642 So. 2d 730, 735 (Fla. 1994)
- Brown v. State, 381 So. 2d 690 (Fla. 1980)
- Bell v. State, 90 So. 2d 704 (Fla. 1956)
- Henderson v. State, 135 Fla. 548, 185 So. 625 (1938)
- Wiggins v. Smith, 539 U.S. 510, 521 (2003)
- Strickland v. Washington, 466 U.S. 668, 668, 694 (1984)
- Sireci v. State, 773 So. 2d 34, 40 n. 10 (Fla. 2000)
- Harvey v. Dugger, 656 So. 2d 1253, 1256 (Fla. 1995)
- Strickler v. Greene, 527 U.S. 263, 281-82 (1999)
- Wright v. State, 857 So. 2d 861, 869 (Fla. 2003)
- Rutherford v. State, 727 So. 2d 216, 223 (Fla. 1998)
- Mendyk v. State, 545 So. 2d 846, 849 (Fla. 1989)
- Clark v. State, 379 So. 2d 97, 103 (Fla. 1979)
- Wright v. State, 739 So. 2d 1230, 1233 (Fla. 1st DCA 1999)

- Teffeteller v. Dugger, 734 So. 2d 1009, 1021 (Fla. 1999)
- Routly v. State, 590 So. 2d 397, 401 (Fla. 1991)
- Cole v. State, 841 So. 2d 409 (Fla. 2003)
- Ake v. Oklahoma, 470 U.S. 68, 82 (1985)
- Mills v. State, 603 So. 2d 482, 485 (Fla. 1992)
- Rose v. State, 675 So. 2d 567, 573 (Fla. 1996)
- Hitchcock v. State, 866 So. 2d 23, 27-28 (Fla. 2004)
- High v. Head, 209 F.3d 1257, 1264 n. 8 (11th Cir. 2000)
- Thompson v. Calderon, 151 F.3d 918, 935 n. 12 (9th Cir. 1998)
- Ring v. Arizona, 536 U.S. 584 (2002)
- Apprendi v. New Jersey, 530 U.S. 466 (2000)
- Johnson v. State, 904 So. 2d 400, 412 (Fla. 2005)
- Williams v. State, 110 So. 2d 654 (Fla. 1959)
- Cartwright v. State, 885 So. 2d 1010, 1013 (Fla. 4th DCA 2004)
- Kelley v. State, 569 So. 2d 754, 761 (Fla. 1990)
- Johnson v. State, 463 So. 2d 207 (Fla. 1985)
- Davis v. State, 90 So. 2d 629, 631 (Fla. 1956)
- Johnson v. State, 593 So. 2d 206, 210 (Fla. 1992)

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