

SUPREME COURT OF FLORIDA

Darious Wilcox v. State of Florida; Darious Wilcox v. Secretary,
Department of Corrections

Wilcox · No. SC2023-1498 & SC2024-0785 · Decided May 21, 2026

SUMMARY

The Florida Supreme Court reviews Darious Wilcox’s appeal from the denial of his initial postconviction motion under Florida Rule of Criminal Procedure 3.851 and his separate petition for habeas corpus. The court rejects his claims of ineffective assistance of penalty-phase counsel and denies habeas relief, affirming the circuit court’s order.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Grosshans, J.; Muñoz, C.J.; Labarga, J.; Couriel, J.; Francis, J.; Sasso, J.
JURISDICTION	Supreme Court of Florida
DECIDED	May 21, 2026
DOCKET	SC2023-1498 & SC2024-0785
DISPOSITION	affirmed
PROCEDURAL POSTURE	Wilcox appealed the denial of his initial Florida Rule of Criminal Procedure 3.851 postconviction motion and separately petitioned the Supreme Court of Florida for a writ of habeas corpus.
STANDARD OF REVIEW	The court accepted factual findings supported by competent substantial evidence and reviewed de novo the circuit court's legal conclusions and ultimate determinations on the performance and prejudice prongs of ineffective-assistance claims. Competency-to-waive-counsel rulings are reviewed for abuse of discretion. Claims positively refuted by the record may be summarily denied.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	Darious Wilcox v. State of Florida

TOPICS

- state post-conviction relief
- habeas corpus
- ineffective assistance
- sentencing
- appellate procedure

PRACTICE AREAS

capital postconviction

criminal procedure

habeas corpus

ineffective assistance of counsel

appellate procedure

QUESTIONS PRESENTED

1. Whether penalty-phase counsel rendered ineffective assistance by inadequately preparing, presenting cumulative background evidence, presenting insufficient mental-health evidence, or failing to challenge the prior-violent-felony aggravator.
2. Whether counsel was ineffective for failing to investigate or challenge Wilcox's competency to waive counsel and represent himself during the guilt phase.
3. Whether Wilcox was entitled to relief under *Hurst v. Florida* and *Hurst v. State*, including whether *State v. Poole* was wrongly decided or could be applied retroactively.
4. Whether the State's failure to transcribe witness statements violated *Brady v. Maryland* or *Giglio v. United States*.
5. Whether a laboratory notice concerning DNA analysis constituted newly discovered evidence warranting relief under *Jones v. State*.
6. Whether appellate counsel was ineffective for failing to raise claims involving competency to proceed pro se, the in-the-course-of-a-felony aggravator, the Simmons rule, due process, effective cross-examination, or confrontation.
7. Whether Wilcox's prior convictions supported the prior-violent-felony aggravator despite his contention that he did not directly shoot or otherwise directly contact the victim.

HOLDINGS

1. Counsel was not ineffective for failing to spend more time preparing, interview additional witnesses, or conduct a more extensive pretrial mitigation investigation. Wilcox's own decision to discharge counsel and proceed pro se materially reduced the time available for preparation, and he failed to establish deficient performance or prejudice.
2. Counsel was not ineffective for failing to present additional background witnesses because their testimony was cumulative of the mitigation presented at trial and the Spencer hearing. Wilcox also failed to show a reasonable probability of a different sentence.
3. Counsel was not ineffective for relying on qualified experts and declining to present additional psychological testing or more favorable postconviction expert testimony. Wilcox failed to establish deficient performance or penalty-phase prejudice.
4. Counsel reasonably stipulated to Wilcox's prior convictions while arguing against the prior-violent-felony aggravator; counsel was not ineffective for declining to call a codefendant whose testimony could have exposed damaging details about the prior crimes.
5. The circuit court properly summarily denied Wilcox's claim that counsel failed to investigate or challenge his competency to waive counsel. The record showed that Wilcox was examined by a qualified

expert who found him competent, and counsel was entitled to rely on that determination.

6. State v. Poole governs Wilcox's Hurst claim. The Sixth and Eighth Amendments do not require the jury to make the sufficiency or weighing determinations under Florida's capital-sentencing statute or to make any sentencing recommendation; the jury need only unanimously find at least one statutory aggravating circumstance beyond a reasonable doubt. That requirement was satisfied by Wilcox's guilt-phase convictions for armed kidnapping and armed robbery and related firearm findings.
7. Applying Poole to Wilcox did not violate due process, create an unconstitutional class of one, or violate the Ex Post Facto Clause. Poole did not retroactively criminalize conduct and was no more onerous than the capital-sentencing law in effect when Wilcox committed the crimes.
8. Wilcox's Brady and Giglio claims were procedurally barred because he attempted to relabel previously rejected direct-appeal discovery claims. They also failed on the merits because the State did not possess transcripts that it failed to disclose and Wilcox did not allege that the prosecutor knowingly presented false testimony.
9. The circuit court properly summarily denied Wilcox's newly discovered evidence claim because a laboratory notice concerning another inmate did not establish that the challenged DNA procedure was used in Wilcox's case and would not probably produce an acquittal on retrial.
10. Wilcox failed to establish ineffective assistance of appellate counsel because the omitted claims were procedurally barred, meritless, unsupported by precedent, or involved errors already determined to be harmless.
11. Wilcox's 1993 murder and armed-robbery convictions supported the prior-violent-felony aggravator even though he was not the shooter. By taking money from the victim, Wilcox exerted force and had the required direct contact with the victim.

KEY QUOTATIONS

“all the jury must do is “unanimously find the existence of a statutory aggravating circumstance beyond a reasonable doubt.”” (at 37)

“[I]n this case [the defendant] was obliged either to give up what he believed, with advice of counsel, to be a valid Fourth Amendment claim or, in legal effect, to waive his Fifth Amendment privilege against self-incrimination.” (at 47)

FACTUAL BACKGROUND

Wilcox was convicted of murdering Nimoy Johnson after restraining Johnson and three women in Johnson's home, shooting Johnson in the back of the head, and fleeing in one of the women's vehicles. Police later found the vehicle, firearms, clothing, fingerprints, and other evidence connecting Wilcox to the crimes, and a cousin testified that Wilcox confessed. At sentencing, the court found four aggravating circumstances and several nonstatutory mitigating factors, but concluded that the aggravators far outweighed mitigation and imposed death.

PROCEDURAL HISTORY

A Broward County jury convicted Wilcox of first-degree murder, four counts of armed kidnapping, and armed robbery, and recommended death by a 7-to-5 vote. The trial court imposed a death sentence, and the Supreme Court of Florida affirmed the convictions and sentence on direct appeal. After an initial summary denial was vacated for a Huff hearing, the circuit court conducted an evidentiary hearing on Wilcox's penalty-phase ineffective-assistance claim and denied all eight postconviction claims. The Supreme Court of Florida affirmed that order and denied habeas relief.

DISPOSITION

affirmed

CASES CITED

- Spencer v. State, 615 So. 2d 688 (Fla. 1993)
- Wilcox v. State, 143 So. 3d 359 (Fla. 2014)
- Wilcox v. Florida, 574 U.S. 1161 (2015)
- Wilcox v. State, No. SC18-146, 2019 WL 4391268 (Fla. Sept. 13, 2019)
- State v. Mullens, 352 So. 3d 1229 (Fla. 2022)
- Strickland v. Washington, 466 U.S. 668 (1984)
- Hitchcock v. State, 991 So. 2d 337 (Fla. 2008)
- Cherry v. State, 781 So. 2d 1040 (Fla. 2000)
- Brown v. State, 304 So. 3d 243 (Fla. 2020)
- Hilton v. State, 326 So. 3d 640 (Fla. 2021)
- Occhicone v. State, 768 So. 2d 1037 (Fla. 2000)
- McKenzie v. State, 153 So. 3d 867 (Fla. 2014)
- Valentine v. State, 98 So. 3d 44 (Fla. 2012)
- Salazar v. State, 188 So. 3d 799 (Fla. 2016)
- Carratelli v. State, 961 So. 2d 312 (Fla. 2007)
- Thornell v. Jones, 602 U.S. 154 (2024)
- Darling v. State, 966 So. 2d 366 (Fla. 2007)
- State v. Woodel, 145 So. 3d 782 (Fla. 2014)
- Rhodes v. State, 986 So. 2d 501 (Fla. 2008)
- Doty v. State, 403 So. 3d 209 (Fla. 2025)
- Kocaker v. State, 311 So. 3d 814 (Fla. 2020)
- Faretta v. California, 422 U.S. 806 (1975)
- Woodbury v. State, 320 So. 3d 631 (Fla. 2021)
- Trease v. State, 41 So. 3d 119 (Fla. 2010)
- Craft v. State, 427 So. 3d 486 (Fla. 2024)
- Indiana v. Edwards, 554 U.S. 164 (2008)

- State v. Poole, 297 So. 3d 487 (Fla. 2020)
- Hurst v. Florida, 577 U.S. 92 (2016)
- Herard v. State, 390 So. 3d 610 (Fla. 2024)
- Wells v. State, 364 So. 3d 1005 (Fla. 2023)
- McKenzie v. State, 333 So. 3d 1098 (Fla. 2022)
- Tanzi v. State, 407 So. 3d 385 (Fla. 2025)
- Ford v. State, 402 So. 3d 973 (Fla. 2025)
- Erlinger v. United States, 602 U.S. 821 (2024)
- Jackson v. State, No. SC2023-1298, 2025 WL 3673716 (Fla. Dec. 18, 2025)
- Dobbert v. Florida, 432 U.S. 282 (1977)
- Bouie v. City of Columbia, 378 U.S. 347 (1964)
- Metrish v. Lancaster, 569 U.S. 351 (2013)
- Rogers v. Tennessee, 532 U.S. 451 (2001)
- Kevin Don Foster v. State of Florida, Foster v. State, 258 So. 3d 1248 (Fla. 2018)
- Wright v. State, 312 So. 3d 59 (Fla. 2021)
- Walls v. State, 361 So. 3d 231 (Fla. 2023)
- Gaskin v. State, 361 So. 3d 300 (Fla. 2023)
- Arbelaez v. State, 369 So. 3d 1141 (Fla. 2023)
- Way v. State, 496 So. 2d 126 (Fla. 1986)
- Griffin v. State, 639 So. 2d 966 (Fla. 1994)
- Brady v. Maryland, 373 U.S. 83 (1963)
- Giglio v. United States, 405 U.S. 150 (1972)
- Bell v. State, 421 So. 3d 399 (Fla. 2025)
- Davis v. State, 417 So. 3d 242 (Fla. 2025)
- Davis v. State, 383 So. 3d 743 (Fla. 2024)
- Sheppard v. State, 338 So. 3d 803 (Fla. 2022)
- Jones v. State, 709 So. 2d 512 (Fla. 1998)
- Truehill v. State, 358 So. 3d 1167 (Fla. 2022)
- Jackson v. State, 347 So. 3d 292 (Fla. 2022)
- Simmons v. United States, 390 U.S. 377 (1968)
- United States v. Salvucci, 448 U.S. 83 (1980)
- Jeffers v. United States, 432 U.S. 137 (1977)
- McGautha v. California, 402 U.S. 183 (1971)
- Gragg v. State, 429 So. 2d 1204 (Fla. 1983)
- Barker v. Wingo, 407 U.S. 514 (1972)
- Bevel v. State, 983 So. 2d 505 (Fla. 2008)
- Johnson v. State, 442 So. 2d 193 (Fla. 1983)

- Mahn v. State, 714 So. 2d 391 (Fla. 1998)
- Lewis v. State, 398 So. 2d 432 (Fla. 1981)
- Gonzalez v. State, 136 So. 3d 1125 (Fla. 2014)
- Johnson v. State, 53 So. 3d 1003 (Fla. 2010)
- Blanton v. State, 978 So. 2d 149 (Fla. 2008)
- Allen v. State, 416 So. 3d 291 (Fla. 2025)
- Conahan v. State, 118 So. 3d 718 (Fla. 2013)

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