

SUPREME COURT OF RHODE ISLAND

Taylor v. Wall

821 A.2d 685 (R.I. 2003) · No. No. 2001-258-C.A. · Decided April 30, 2003

SUMMARY

The Supreme Court of Rhode Island affirmed the denial of Sydney Earl Scott Taylor's application for post-conviction relief. The court held that Taylor's challenge to an allegedly prejudicial jury comment was barred by waiver and res judicata principles, and that the videotaped testimony procedure for the child victim satisfied the Confrontation Clause requirements. The court also concluded that Maryland v. Craig did not apply retroactively to provide relief.

CASE DETAILS

COURT	Supreme Court of Rhode Island
WRITING FOR THE COURT	Per curiam; Williams, C.J.; Flanders, J.; Goldberg, J.
JURISDICTION	Rhode Island
DECIDED	April 30, 2003
DOCKET	No. 2001-258-C.A.
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the denial of an application for post-conviction relief by the Rhode Island Superior Court.
STANDARD OF REVIEW	The court will not disturb factual findings in a post-conviction-relief proceeding absent clear error or a showing that the hearing justice overlooked or misconceived material evidence. Constitutional questions and mixed questions of law and fact are reviewed de novo, although historical facts and inferences remain entitled to great deference.
PRECEDENTIAL VALUE	Published opinion; binding Rhode Island Supreme Court precedent.
PARTIES	Sydney Earl Scott Taylor v. Ashbel T. Wall, in his capacity as Director of the Department of Corrections of the State of Rhode Island, et al.

TOPICS

- state post-conviction relief
- sixth amendment
- criminal procedure
- appellate procedure
- procedural due process

PRACTICE AREAS

criminal procedure

post-conviction relief

constitutional law

appellate procedure

QUESTIONS PRESENTED

1. Whether Taylor's challenge to an allegedly prejudicial trial-justice comment was barred by Rhode Island's post-conviction-relief waiver and res judicata provision.
2. Whether permitting the child victim to testify by prerecorded videotape outside Taylor's physical presence violated the Sixth Amendment right of confrontation under *Maryland v. Craig*.
3. Whether the delayed presentation of the prerecorded testimony deprived Taylor of the opportunity for contemporaneous cross-examination and therefore violated the Sixth Amendment.
4. Whether *Maryland v. Craig* announced a new rule that could be applied retroactively on collateral review.

HOLDINGS

1. The challenge was barred because it could have been raised on Taylor's direct appeal and therefore was precluded by Rhode Island's post-conviction-relief waiver provision, which codifies res judicata principles.
2. The procedure did not violate Taylor's Sixth Amendment confrontation right because the trial justice made the required case-specific finding that the child would suffer unreasonable and unnecessary mental and emotional harm from testifying in Taylor's presence, and the testimony was subject to oath, cross-examination, and observation by the judge and jury.
3. The delayed broadcast of the child's prerecorded testimony did not deprive Taylor of his Sixth Amendment right of confrontation.
4. Even if *Craig* announced a new rule, it would not apply retroactively to Taylor's collateral proceeding because it did not fall within either recognized exception for retroactive application of new criminal-procedure rules.

KEY QUOTATIONS

"Once these findings have been made, 'the Confrontation Clause does not prohibit use of a procedure that, despite the absence of face-to-face confrontation, ensures the reliability of the evidence by subjecting it to rigorous adversarial testing and thereby preserves the essence of effective confrontation.'" (689-90)

"Accordingly, we hold that the delayed broadcast of Sally's testimony did not deprive the applicant of his Sixth Amendment right of confrontation." (691)

FACTUAL BACKGROUND

In the early morning of July 19, 1985, a seven-year-old child was abducted from her bedroom and sexually assaulted. Police arrested Taylor nearby, and the child immediately identified him. Before trial, the Superior Court found that the child would suffer unreasonable and unnecessary mental and emotional harm if required to

testify in Taylor's presence, so it permitted her testimony to be prerecorded and later shown to the jury, with Taylor's counsel able to cross-examine her and Taylor able to observe and hear the recording as it was made.

PROCEDURAL HISTORY

Taylor was convicted after a jury trial of kidnapping, burglary, first-degree child molestation, and obstructing a police officer, and his convictions were affirmed on direct appeal. In 1999, he sought post-conviction relief, challenging a trial justice's statement concerning videotaped testimony and the procedure permitting the child victim to testify outside Taylor's physical presence. The Superior Court denied relief, and the Supreme Court of Rhode Island affirmed.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The papers in the case are to be returned to the Superior Court.

CASES CITED

- State v. Taylor, 562 A.2d 445 (R.I. 1989)
- Bleau v. Wall, 808 A.2d 637, 641-42 (R.I. 2002)
- State v. Thomas, 794 A.2d 990, 993 (R.I. 2002)
- State v. DeCiantis, 813 A.2d 986, 993 (R.I. 2003)
- Carillo v. Moran, 463 A.2d 178, 182 (R.I. 1983)
- Ouimette v. State, 785 A.2d 1132, 1138 (R.I. 2001)
- Maryland v. Craig, 497 U.S. 836, 853, 855-57, 110 S. Ct. 3157, 3167, 3169-70, 111 L. Ed. 2d 666, 683, 685-86 (1990)
- Pailin v. Vose, 603 A.2d 738, 741-42 (R.I. 1992)
- Teague v. Lane, 489 U.S. 288, 311, 109 S. Ct. 1060, 1075, 111 L. Ed. 2d 334, 356 (1989) (plurality opinion)
- Sawyer v. Smith, 497 U.S. 227, 242, 110 S. Ct. 2822, 2831, 111 L. Ed. 2d 193, 211 (1990)
- Hardy v. Wigginton, 922 F.2d 294, 300 (6th Cir. 1990)