

COURT OF APPEALS OF MARYLAND

Horton v. State, 412 Md. 1

985 A.2d 540 (2009) · No. No. 114, September Term, 2007 · Decided December 21, 2009

SUMMARY

The Maryland Court of Appeals considered a petition for post-conviction DNA testing under Maryland Criminal Procedure Article § 8-201. The court held that the State had not demonstrated that the requested evidence was actually destroyed or conducted a sufficiently exhaustive search, and it reversed the circuit court’s denial of the petition.

CASE DETAILS

COURT	Court of Appeals of Maryland
WRITING FOR THE COURT	John C. Eldridge; Bell, C.J.; Harrell, J.; Battaglia, J.; Greene, J.; Murphy, J.; John C. Eldridge, J., retired, specially assigned; Dale R. Cathell, J., retired, specially assigned
JURISDICTION	Maryland
DECIDED	December 21, 2009
DOCKET	No. 114, September Term, 2007
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Direct appeal to the Court of Appeals of Maryland from the Circuit Court for Montgomery County's denial of a petition for post-conviction DNA testing under Maryland Criminal Procedure Article § 8-201.
STANDARD OF REVIEW	Not expressly stated; the Court reviewed the circuit court's application of Maryland Criminal Procedure Article § 8-201 and its determination regarding the adequacy of the State's search.
PRECEDENTIAL VALUE	Published precedential opinion of the Court of Appeals of Maryland; majority opinion reversing and remanding, with dissent.
PARTIES	Tyrone Horton v. State of Maryland

TOPICS

- post-conviction relief
- criminal procedure
- evidence
- statutory interpretation

PRACTICE AREAS

post-conviction relief

criminal procedure

DNA testing

evidence preservation

statutory interpretation

QUESTIONS PRESENTED

1. Whether the State established that the physical evidence requested for DNA testing no longer existed.
2. Whether the State conducted a reasonable search for requested DNA evidence under Maryland Criminal Procedure Article § 8-201 and the standards established in *Blake* and *Arey*.
3. Whether the circuit court erred by denying the petition before the petitioner had a meaningful opportunity to investigate the Form 526, question the State's affiants, and pursue specified additional searches.

HOLDINGS

1. The State bears the burden of establishing that evidence requested for post-conviction DNA testing no longer exists.
2. A court may not conclude that requested DNA evidence no longer exists until the State performs a reasonable search of locations where the evidence could reasonably be found and, if possible, identifies and verifies the applicable evidence-handling and destruction protocols.
3. The circuit court erred by denying the petition where the petitioner identified narrowly tailored additional investigative steps that could clarify whether the evidence still existed.

KEY QUOTATIONS

“a court should not conclude that evidence no longer exists until the State performs a reasonable search for the requested evidence.” (412 Md. at 8)

“the Circuit Court in this case should have required the State to determine, if possible, the proper protocol for handling and destroying evidence in Montgomery County in 1982.” (412 Md. at 16)

“The ‘Form 526’ and the other documentary evidence provided by the State show that evidence was authorized for destruction, but the State failed to establish that any evidence was actually destroyed.” (412 Md. at 17)

FACTUAL BACKGROUND

Physical evidence collected during the investigation of Horton's 1982 rape and related offenses included a hospital rape kit, clothing, and blood and hair samples. No DNA testing had been performed on the relevant biological material at the time of trial. In response to Horton's DNA-testing petition, the State and Suburban Hospital conducted searches and located records indicating that some evidence had been authorized for destruction, but they did not establish that all evidence had actually been destroyed. Additional potentially relevant locations and information, including the hospital microbiology department, historical evidence-destruction protocols, and the meaning of the Form 526, remained insufficiently investigated.

PROCEDURAL HISTORY

Horton was convicted in 1983 of first-degree rape, assault with intent to maim, and burglary, and his convictions were affirmed on direct review. After a prior post-conviction petition was denied, Horton filed a § 8-201 petition in 2006 seeking DNA testing of physical evidence. The circuit court permitted searches and limited discovery but denied the petition after finding no reasonable basis to believe additional investigation would locate testable evidence. The Court of Appeals reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was remanded to the Circuit Court for Montgomery County for further proceedings consistent with the opinion, including additional reasonable investigation into the location, handling, and possible destruction of the requested evidence.

CASES CITED

- Gregg v. State, 409 Md. 698, 976 A.2d 999 (2009)
- Arey v. State, 400 Md. 491, 929 A.2d 501 (2007)
- Thompson v. State, 395 Md. 240, 909 A.2d 1035 (2006)
- Blake v. State, 395 Md. 213, 909 A.2d 1020 (2006)
- Bloodsworth v. State, 307 Md. 164, 512 A.2d 1056 (1986)
- Bloodsworth v. State, 76 Md. App. 23, 543 A.2d 382 (1988), cert. denied, 313 Md. 688, 548 A.2d 128 (1988)
- Horton v. State, 301 Md. 176, 482 A.2d 501 (1984)
- Owens-Illinois v. Zenobia, 325 Md. 420, 601 A.2d 633 (1992)
- Jones v. State, 302 Md. 153, 486 A.2d 184 (1985)
- Williams v. State, 292 Md. 201, 438 A.2d 1301 (1981)
- Lewis v. State, 285 Md. 705, 404 A.2d 1073 (1979)
- Arrington v. State, 411 Md. 524, 983 A.2d 1071 (2009)