

SUPREME COURT OF ARKANSAS

Engstrom v. State

2016 Ark. 45 (2016) · No. CR-15-781 · Decided February 4, 2016

SUMMARY

The Arkansas Supreme Court dismissed David W. Engstrom’s appeal from the denial of his Arkansas Rule of Criminal Procedure 37.1 postconviction petition and declared his motions for an extension of time to file a brief moot. The court held that the petition was untimely as to one case and failed to state a viable claim for relief as to the other. The court also concluded that Engstrom had no right to appeal directly from his guilty pleas under the circumstances presented.

CASE DETAILS

COURT	Supreme Court of Arkansas
JURISDICTION	Arkansas
DECIDED	February 4, 2016
DOCKET	CR-15-781
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appeal from the denial of a petition for postconviction relief under Arkansas Rule of Criminal Procedure 37.1; the appellant also moved for extensions of time to file his brief.
STANDARD OF REVIEW	The denial of Rule 37.1 postconviction relief is reviewed for clear error. Ineffective-assistance claims are evaluated under the two-prong Strickland standard.
PRECEDENTIAL VALUE	Published Arkansas Supreme Court opinion; precedential.
PARTIES	David W. Engstrom v. State of Arkansas

TOPICS

- post-conviction relief
- ineffective assistance
- plea bargaining
- appellate procedure
- criminal procedure

PRACTICE AREAS

- criminal procedure
- postconviction relief
- ineffective assistance
- appellate procedure

QUESTIONS PRESENTED

1. Whether the Rule 37.1 petition was timely as to the 2012 guilty-plea judgment.
2. Whether the petition stated a cognizable and sufficient ineffective-assistance claim concerning the 2013 guilty pleas.
3. Whether counsel was ineffective for failing to advise Engstrom of a right to appeal from a guilty-plea judgment.
4. Whether the appeal should proceed when the record demonstrated that Engstrom could not prevail.

HOLDINGS

1. An appeal from an order denying postconviction relief will not be permitted to go forward when it is evident from the record that the appellant cannot prevail.
2. When a defendant enters a guilty plea, a Rule 37.1 petition must be filed within ninety days of the date judgment is entered; Engstrom's petition filed in 2015 was untimely as to the 2012 judgment.
3. In guilty-plea postconviction proceedings, the petitioner must show that the plea was not intelligently and voluntarily entered on the advice of competent counsel, satisfying both deficient performance and prejudice under Strickland.
4. A claim that the evidence was insufficient to support the judgment is not cognizable in a Rule 37.1 proceeding, and a guilty plea waives a claim that the defendant was not guilty of the charges.
5. A defendant generally has no direct appeal from a guilty plea, subject to limited exceptions; absent an applicable exception, counsel has no duty to advise the defendant of a right to appeal from the guilty-plea judgment.

KEY QUOTATIONS

“This court will not permit an appeal from an order that denied a petition for postconviction relief to go forward where it is clear that the appellant could not prevail.” (2016 Ark. 45)

“A criminal defendant does not have an absolute right to plead guilty on his or her own terms.” (2016 Ark. 45, at 6)

FACTUAL BACKGROUND

Engstrom pleaded guilty to failure to register as a sex offender and was placed on seventy-two months' probation in case 60CR-12-1134; after probation was revoked, he received thirty-six months' imprisonment. In case 60CR-13-3242, he pleaded guilty to multiple child-sexual-exploitation offenses and received an aggregate sentence of 720 months. His Rule 37.1 petition alleged ineffective assistance involving coercive tactics, inadequate communication, failure to explain consecutive sentencing, failure to advise him of an appeal right, and insufficient evidence, but it did not adequately allege prejudice or a cognizable ground for relief.

PROCEDURAL HISTORY

Engstrom pleaded guilty in two Pulaski County criminal cases. After probation was revoked in one case and a lengthy aggregate sentence was imposed in the other, he filed a Rule 37.1 petition seeking to have both judgments declared void. The circuit court entered a single order addressing both cases, found the claims

meritless, and alternatively ruled that the petition was untimely. The Supreme Court of Arkansas dismissed the appeal because Engstrom could not prevail, rendering his motions for extensions of time moot.

DISPOSITION

dismissed

CASES CITED

- Justus v. State, 2012 Ark. 91
- Mancía v. State, 2015 Ark. 115, 459 S.W.3d 259
- Strickland v. Washington, 466 U.S. 668 (1984)
- Sartin v. State, 2012 Ark. 155, 400 S.W.3d 694
- Wainwright v. State, 307 Ark. 569, 823 S.W.2d 449 (1992)
- Lemaster v. State, 2015 Ark. 167, 459 S.W.3d 802
- Kemp v. State, 347 Ark. 52, 55, 60 S.W.3d 404, 406 (2001)
- Prater v. State, 2012 Ark. 164, at 8, 402 S.W.3d 68, 74
- Houghton v. State, 2015 Ark. 252, 464 S.W.3d 922
- Hill v. Lockhart, 474 U.S. 52 (1985)
- Anderson v. State, 2011 Ark. 488, 385 S.W.3d 783, 788
- Watson v. State, 2014 Ark. 203, 444 S.W.3d 835, 840
- Scott v. State, 2012 Ark. 199, 406 S.W.3d 1
- Beverage v. State, 2015 Ark. 112, 458 S.W.3d 243, 248
- Numan v. State, 291 Ark. 22, 23, 722 S.W.2d 276, 277 (1987)
- Seibs v. State, 357 Ark. 331, 166 S.W.3d 16 (2004)
- Johnson v. State, 2010 Ark. 63
- Bradford v. State, 351 Ark. 394, 94 S.W.3d 904 (2003)
- Nelson v. State, 2012 Ark. 217 (per curiam)
- Smith v. State, 2011 Ark. 54 (per curiam)
- Grissom v. State, 2009 Ark. 328 (per curiam)
- Berry v. City of Fayetteville, 354 Ark. 470, 125 S.W.3d 171 (2003)
- Barnett v. State, 336 Ark. 165, 984 S.W.2d 444 (1999)
- Tubbs v. State, 2011 Ark. 166 (per curiam)