

SUPREME COURT OF FLORIDA

Cox v. State

5 So. 3d 659 (Fla. 2009) · No. SC08-887 · Decided March 12, 2009

SUMMARY

The Supreme Court of Florida affirmed the summary denial of Allen Ward Cox’s successive motion for postconviction relief challenging Florida’s lethal-injection protocol, restrictions on counsel’s ability to pursue 42 U.S.C. § 1983 actions, and confidentiality of execution-team identities. The court’s per curiam majority relied on its prior decisions rejecting these claims, while separate opinions addressed the statutory scope of capital postconviction representation and mode-of-execution challenges.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Quince, C.J.; Canady, J.; Polston, J.; Labarga, J.; Lewis, J.; Pariente, J.
JURISDICTION	Florida
DECIDED	March 12, 2009
DOCKET	SC08-887
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the circuit court's summary denial of a successive motion for postconviction relief under Florida Rule of Criminal Procedure 3.851 by a prisoner under sentence of death.
STANDARD OF REVIEW	The court reviewed the circuit court's summary denial of a successive postconviction motion; the opinion does not state a separately articulated standard-of-review formula.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Allen Ward Cox v. State of Florida

TOPICS

- state post-conviction relief
- successive petitions
- cruel and unusual punishment
- section 1983
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Cox's constitutional challenge to Florida's current lethal-injection protocol entitled him to successive state postconviction relief.
2. Whether sections 27.7001 and 27.702, Florida Statutes (2008), were unconstitutional facially or as applied because they prevented capital collateral counsel from filing a mode-of-execution challenge under 42 U.S.C. § 1983.
3. Whether section 945.10, Florida Statutes (2008), was unconstitutional because it restricted disclosure of execution-team members' identities and allegedly prevented Cox from assessing their qualifications and training.

HOLDINGS

1. Cox's challenge to Florida's current lethal-injection protocol was meritless because the court had consistently rejected the same constitutional challenge.
2. The court rejected Cox's facial and as-applied constitutional challenge to sections 27.7001 and 27.702, Florida Statutes (2008), as interpreted to prohibit capital collateral counsel from filing mode-of-execution challenges under 42 U.S.C. § 1983.
3. Cox's constitutional challenge to section 945.10, Florida Statutes (2008), based on restrictions on disclosure of execution-team members' identities was meritless.

KEY QUOTATIONS

"Therefore, we affirm the order of the circuit court summarily denying Cox's successive postconviction motion." (5 So. 3d at 659)

FACTUAL BACKGROUND

Allen Ward Cox was a prisoner under sentence of death in Florida. He challenged Florida's then-current lethal-injection protocol, asserted that Florida statutes improperly prevented capital collateral counsel from filing a mode-of-execution challenge under 42 U.S.C. § 1983, and argued that statutory confidentiality provisions prevented him from discovering the identities and qualifications of execution-team members. Cox also had an initial federal habeas petition pending in the Middle District of Florida.

PROCEDURAL HISTORY

The Supreme Court of Florida previously affirmed Cox's capital conviction and sentence on direct appeal and later affirmed the denial of his initial state postconviction motion and accompanying habeas petition. Cox then filed a successive state postconviction motion challenging Florida's lethal-injection protocol, statutory limits on capital collateral counsel's representation in section 1983 litigation, and restrictions on disclosure of execution-team identities. The circuit court summarily denied the motion, and the Supreme Court of Florida affirmed.

DISPOSITION

affirmed

CASES CITED

- Cox v. State, 819 So. 2d 705 (Fla. 2002)
- Cox v. State, 966 So. 2d 337 (Fla. 2007)
- Ventura v. State, 2 So. 3d 194 (Fla. 2009)
- Tompkins v. State, 994 So. 2d 1072 (Fla. 2008)
- Henyard v. State, 992 So. 2d 120 (Fla. 2008)
- Lightbourne v. McCollum, 969 So. 2d 326 (Fla. 2007)
- Provenzano v. State, 761 So. 2d 1097 (Fla. 2000)
- Bryan v. State, 753 So. 2d 1244 (Fla. 2000)
- State ex rel. Butterworth v. Kenny, 714 So. 2d 404 (Fla. 1998)
- Baze v. Rees, 128 S. Ct. 1520 (2008)
- Hill v. McDonough, 547 U.S. 573 (2006)
- In re Schwab, 506 F.3d 1369 (11th Cir. 2007)
- Maine v. Thiboutot, 448 U.S. 1 (1980)
- Martinez v. California, 444 U.S. 277 (1980)